

# **EXHIBIT A**

995

F11Qsok6

1 the others, what language in 937 that you thought was relevant  
2 to be admitted. Was that deliberate?

3 MR. YALOWITZ: Unlikely, but let me do this: Let's  
4 hear what the Court's balls and strikes are on the other ones.  
5 If there is something in -- which one was it, your Honor?

6 THE COURT: 937.

7 MR. YALOWITZ: If there is something in 937 that I  
8 think I need, then I will give you a call.

9 THE COURT: You will let me know.

10 MR. YALOWITZ: If I think I need it and it's  
11 consistent with your other rulings, I'll let you know. If I  
12 think I need it and it's outside the lines of what your rulings  
13 are, I'll be guided by that ruling and it will be understood I  
14 offered it, but that based on the other rulings, I'm not going  
15 to re-offer it.

16 THE COURT: We can discuss in detail later, but let me  
17 give you my list as I have it as it existed in plaintiff's  
18 letter.

19 Exhibit 201 is out. Exhibit 202 is out. Exhibit 204  
20 is out. 175 is in. 964 is out. 198 is in. 178 is in. 199  
21 is out. 177 is out. 179 is out. 200 is in. 936 is in. 203  
22 is out. 935 is in. 949 is in. 176 is out. 965 is in. 966  
23 is out. 185 is in. 176 is out. And my default position,  
24 because I've looked at it and I can't find, nor it hasn't been  
25 identified at this point what the relevant portion would be,

F11Qsok6

1 I'm going to rule at this point that 937 is out; but if you  
2 tell me there is something there -- but, quite frankly, in my  
3 review of 937, again, I think it is a two-edged sword because I  
4 think some of the statements in there are not particularly  
5 complimentary of plaintiffs with regard to the issues that are  
6 raised there and are not particularly -- I'll just put it that  
7 way.

8           You can look at it. That's an assessment the  
9 plaintiff has to make whether or not you feel its probative  
10 value is greater than the danger the jury might use other  
11 portions against you.

12           MR. YALOWITZ: I'll assume it's out unless there's  
13 something we really think we need in it, we'll make that  
14 assessment; but if you don't hear from us, you should assume  
15 it's been withdrawn.

16           THE COURT: I can give you some reasons specifically I  
17 will just give you an example of 201 is the first one on here,  
18 talking about liquidating the Jews, describing them as a  
19 chronic parasite disease, cutting out some or all of their  
20 organs and destroying its function. I think that that is a bit  
21 over the top to simply be evidence that it is some signal or  
22 indication that they intend to do terrorist acts or that they  
23 intend to do the terrorist acts involved in this case. I think  
24 it is highly inflammatory and prejudicial and the undue  
25 prejudice outweighs whatever probative value that one

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1           Let me just state, my ruling stands. I evaluated it  
2   thoughtfully, in a discriminate manner, and the ones that I  
3   allowed are the ones that I thought were appropriate to allow.  
4   Quite frankly, I don't think I need to make any further record  
5   than the record that's made by the quotations that the  
6   plaintiff himself adds to this letter arguing, again, that it  
7   should be admitted.

8           Clearly, the statements in this have little, if any,  
9   probative value with regard to whether someone is committing an  
10   act of terror or whether they are involved in these terrorist  
11   acts, and it's clearly unduly prejudicial and duly prejudicial  
12   based on stated positions about religion.

13           I evaluated these and evaluated them in context with  
14   the ones that I allowed. The ones that I allowed I made a  
15   determination that there are some, although I find to be slight  
16   probative value, but that probative value is not outweighed by  
17   its undue prejudice. That's the ruling on that and I am not  
18   going to revisit that ruling.

19           I have looked at the other videos that have been  
20   handed to me and a lot of these other issues are issues that  
21   were in yesterday's letter. Let me just put it into a  
22   category. All of the following items are out and I will put  
23   them in categories.

24           Symbolic funerals that were held eight years later,  
25   after the Israeli government returned remains of people who had

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FlnQsok2

Shrenzel - Direct

1 guidance for the border region forces.

2 Q. Is that part of the PA?

3 A. It is.

4 Q. Is this a publication of the PA itself?

5 A. It is.

6 MR. YALOWITZ: Plaintiffs offer 200 in evidence.

7 THE COURT: Any objection?

8 MR. ROCHON: Yes, sir.

9 THE COURT: It will be admitted into evidence.

10 (Plaintiff's Exhibit 200 received in evidence)

11 Q. Please turn to Exhibit 201. Do you have 201 before you?

12 A. I do.

13 Q. What is it?

14 A. Again, al-Shuhada the martyrs.

15 MR. ROCHON: Your Honor, we would object on this one.

16 I think we need to at least consult with counsel, if I may.

17 MR. YALOWITZ: Does the Court have this exhibit in  
18 mind?

19 THE COURT: I don't have it in front of me, so I don't  
20 have it in mind. Speak to Mr. Rochon first and see if you can  
21 resolve whatever difficulties you have.

22 MR. YALOWITZ: Let me make my record and application  
23 and then Mr. Rochon can object if he cares to.

24 THE COURT: OK. Are you objecting to this exhibit?

25 MR. ROCHON: Yes, your Honor.

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FlnQsok2

Shrenzel - Direct

1 THE COURT: Let me see the exhibit.

2 Come up come up, Mr. Rochon.

3 MR. ROCHON: Thank you.

4 (At the side bar)

5 THE COURT: Yes, sir.

6 MR. ROCHON: This is one that you excluded.

7 MR. YALOWITZ: I agree with that.

8 THE COURT: So why are we up here?

9 MR. YALOWITZ: Because I want to offer it and have him  
10 object to it and --

11 THE COURT: But I already ruled on this. All right?

12 (Continued on next page)

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F1qQsok3

1 THE COURT: Mr. Hill, cross-examination?

2 MR. HILL: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. HILL:

5 Q. Good afternoon, ladies and gentlemen. Good afternoon

6 Colonel Shrenzel.

7 A. Hello.

8 Q. My name is Brian Hill. You testified here over the course

9 of the last few days about five separate terrorist attacks?

10 A. I did.

11 Q. At the time of each of those attacks between 2002 and 2004,

12 you worked for the Israel Security Agency?

13 A. Yes.

14 Q. As part of your work at the ISA, you did not investigate

15 any of the five attacks that you testified about, correct?

16 A. Not from the effort of the ISA -- I was not part of the

17 direct effort to find out who was the perpetrator and how we

18 can put our hands on, but of course as head of an analysis

19 unit, I had got information about the attacks, I got

20 information -- when we had it, about the perpetrators in order

21 for me to fulfill my task that of portraying the picture and

22 understanding the policies and the strategies of the

23 defendants.

24 Q. And you did not actually interrogate any of the

25 perpetrators of any of these attacks?

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FlqQsok3

SHRENZEL - Cross

1 A. No, I was not involved in direct interrogations.

2 Q. In fact, you have not even met any of the perpetrators of  
3 these attacks, right?

4 A. No, I have not -- I haven't met any of them.

5 Q. You were hired by a group of lawyers to testify in this  
6 case?

7 A. Yes.

8 Q. And you were not hired by Mr. Yalowitz and his team,  
9 correct?

10 MR. YALOWITZ: Objection.

11 THE COURT: I'm going to sustain as to relevance.

12 Q. You were in fact hired by an Israeli law firm?

13 MR. YALOWITZ: Objection.

14 THE COURT: Is there some relevance to this, Mr. Hill?

15 MR. ROCHON: Trying to get there, your Honor.

16 THE COURT: Well, you're not there, so I'm going to  
17 sustain the objection. It doesn't make a difference which  
18 lawyers he's hired by.

19 Q. When you were hired by the lawyers, regardless of who they  
20 were, you were given a draft report, right?

21 A. Yes, I was.

22 Q. That draft report had been written by two people, Arie  
23 Spitzen and Noa Meridor, correct?

24 A. Yes.

25 Q. Arie Spitzen is a former Israeli Defense Forces officer,



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FlqQsok3

SHRENZEL - Cross

1 correct?

2 A. I think he was -- he worked as a civilian for the army,  
3 yes, but he -- he worked as a civilian for the army within  
4 direction of the army.

5 Q. He was a colonel right?

6 A. Or equivalent to a colonel.

7 Q. Just like you?

8 A. Yes.

9 Q. Noa Meridor, he is also a former IDF officer?

10 A. I also think he worked as a civilian in COGART. I  
11 mentioned this term, the coordination of government activities  
12 in the territories.

13 Q. That's a unit of the Israeli army, right?

14 A. Yes, but it has also many civilian aspects of.

15 Q. What was Meridor's rank?

16 A. I don't know.

17 Q. Now, Arie Spitz, he used to work for the intelligence  
18 branch of the Israel defense forces, right?

19 A. No, I think he worked for that body COGAT. I am really  
20 not -- I know him, of course, but I'm not that familiar with  
21 every detail of his career.

22 Q. COGAT is also where Lieutenant Colonel Eviatar worked?

23 A. Yes, basically. Yes.

24 Q. And you know Lieutenant Colonel Eviatar, you saw him  
25 testify here?

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FlqQsok3

SHRENZEL - Cross

1 A. I saw not all of his testimony. I saw parts of it.

2 Q. Now, you've mentioned a couple of times this thing called  
3 COGAT. That's an acronym right?

4 A. Yes, COGAT.

5 Q. In English it's C-O-G-A-T?

6 A. Right.

7 Q. And that stands for coordinator of government activities in  
8 the territories, right?

9 A. Yes.

10 Q. And the T is for territories, right?

11 A. Yes.

12 Q. And those are the occupied Palestinian territories, right?

13 MR. YALOWITZ: Objection, your Honor.

14 THE COURT: Overruled. You can answer.

15 A. You know that we are now getting into this maze of  
16 terminology. Of course, the Palistinians see it as occupied.  
17 Some Israelis see it as liberated. These are the polar --  
18 polarized positions. So the definition of the Israeli army and  
19 of my service was territories. Not occupied. Not liberated.  
20 But the territories.

21 Q. The Israeli Supreme Court has said they're occupied  
22 territories, right?

23 MR. YALOWITZ: Objection.

24 THE COURT: Sustained.

25 Q. COGAT is responsible for implementing the Israeli

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FlqQsok3

SHRENZEL - Cross

1 government's policy in the Palestinian territories, correct?

2 MR. YALOWITZ: Objection.

3 THE COURT: Overruled. You can answer.

4 A. I was never an employee of COGAT, so I'm not familiar with  
5 the detailed definition, but as you said. It's a part of the  
6 army in Israel and the army is obedient to the government so--

7 Q. They are responsible for administration of Israeli policy  
8 in Gaza and the West Bank, right?

9 A. Generally speaking, yes.

10 Q. You also know a man named Roni Shaked, right?

11 A. Not personally.

12 Q. You know hoe is?

13 A. I know who he is, but I never met him personally.

14 Q. Roni Shaked also used to work for the ISA, right?

15 A. That's what I heard, but he is -- I do believe that he  
16 retired even before I was enlisted to the service.

17 Q. You were here when Lieutenant Colonel Eviatar testified  
18 that the first draft of his report was written by Roni Shaked,  
19 right?

20 A. I was here, yes.

21 Q. To sum up Lieutenant Colonel Eviatar, Colonel Spitzen,  
22 Meridor, Roni Shaked and yourself have all worked for the  
23 Israeli government, correct?

24 A. In some point or another in our career, yes.

25 Q. Now, you testified about payments that were made to

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FlqQsok3

SHRENZEL - Cross

1 families of martyrs, correct?

2 A. Yes.

3 Q. We should be clear about who is considered a martyr. Any  
4 Palestinian who is killed in connection with the conflict with  
5 Israel is considered a martyr by the Palistinians, correct?

6 A. Yes.

7 Q. It doesn't matter how that person dies, right?

8 A. Yes, but it should be in the scope of confrontation with  
9 Israel, yes.

10 Q. So a Palestinian who is shot by a soldier in the West Bank  
11 is considered a martyr, right?

12 A. By the Palistinians, yes.

13 Q. And a Palestinian that is killed by an Israeli settler in  
14 the West Bank is also considered a martyr, right?

15 MR. YALOWITZ: Objection.

16 THE COURT: Overruled.

17 You can answer.

18 A. Yes. Well, no one dictates to them how to define their  
19 people so they consider them as martyrs.

20 Q. Any Palestinian who was accidentally killed during the  
21 Israeli invasion called operation defensive shield, they would  
22 also be considered a martyr, right?

23 MR. YALOWITZ: Your Honor, could I have a side bar  
24 please?

25 THE COURT: No. Do you have an objection?

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FlqQsok3

SHRENZEL - Cross

1 MR. YALOWITZ: Yes, I do.

2 THE COURT: The objection is sustained.

3 Q. Any Palistinian killed as collateral damage in an  
4 assassination --

5 MR. YALOWITZ: Objection. Objection.

6 Q. -- by the IDF is also considered a martyr?

7 MR. YALOWITZ: Objection.

8 THE COURT: Mr. Yalowitz, I heard you the first time.

9 MR. YALOWITZ: Mr. Hill didn't. I'm sorry about that.

10 THE COURT: Mr. Hill, I'm sustaining the objection,  
11 and also to any questions in that regard the way you just  
12 phrased it. Move on.

13 MR. ROCHON: I understand.

14 Q. Let me show you what is in evidence as plaintiff's trial  
15 Exhibit 496. We will put it on the screen.

16 This is a U.S. government report that Mr. Yalowitz  
17 asked you some questions about, right, sir?

18 A. Yes, sir.

19 Q. Let me show you page 2. In the first paragraph of the  
20 overview, if we could call that out, this U.S. Government  
21 report indicates in the second sentence: "According to  
22 statistics maintained by the U.S. Government, between  
23 December 16, 2001 and June 15, 2002, and then if we skip to the  
24 last sentence, it says, "679 Palistinians were killed" --

25 MR. YALOWITZ: Objection. Objection.

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FlqQsok3

SHRENZEL - Cross

1 THE COURT: Overruled. It's in evidence, sir. If you  
2 want to use it again, you can bring it up on your redirect.

3 A. I didn't hear you. Sorry for that.

4 Q. Mr. Shrenzel according to the document that is in evidence,  
5 according to statistics between December 16, 2001 and June 15,  
6 2002 679 Palistinians were killed, correct?

7 A. That's what it says, I accept it as credible.

8 Q. Each of those 679 Palistinians is considered a martyr by  
9 the Palistinians, right?

10 A. Yes.

11 Q. And each of those 679 families are eligible under the  
12 Palestinian law to apply for martyrs benefits, right?

13 A. Yes.

14 Q. And the institute that we've called the martyrs institute,  
15 it makes payments not only to the families of martyrs but also  
16 to Palistinians that are injured as a result of the conflict,  
17 right?

18 A. Yes.

19 Q. This document that we are looking at here, the American  
20 report indicate that during the period between December 16,  
21 2001 and June 15, 2002, 1,514 Palistinians were wounded,  
22 correct?

23 MR. YALOWITZ: Objection.

24 THE COURT: Overruled.

25 A. Yes, as I said, I take it as written. I have no reason to

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FlqQsok3

SHRENZEL - Cross

1 doubt the data provided by the American authorities.

2 Q. Each of those 1,514 Palistinians who were wounded during  
3 this six-month period were eligible to apply for benefits to  
4 the institute for the familiar leaves martyrs and the injured,  
5 correct?

6 A. Yes.

7 MR. ROCHON: Judge, in caution, I know it's 12:30, and  
8 I know you may have lunch for the jurors and our policy is not  
9 to stand between jurors and lunch.

10 THE COURT: I have just been handed a note that lunch  
11 is on the way upstairs. This is what I am going to do though,  
12 ladies and gentlemen. I'm going to keep you a little bit  
13 longer. It stopped snowing at the moment, and I want to give  
14 Mr. Hill maybe about 45 minutes or so to continue his  
15 examination, so we won't lose as much time as we might  
16 otherwise.

17 I am going to ask you to do this: We are going to  
18 adjourn for about 45, 50 minutes you don't have to stay in the  
19 jury room, but after you've completed your lunch, I'm going to  
20 bring you out about 1:15 or so and probably go until about 2:00  
21 and then send you home. That is the way I think it is best to  
22 proceed.

23 Don't discuss the case. Keep an open mind. You can  
24 go into the jury room hoping your lunch is on its way up the  
25 elevator and you can eat. I will see you at 1:15.

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F1qQsok3

SHRENZEL - Cross

1 (Jury recessed)

2 (Continued on next page)

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FlqQsok3

SHRENZEL - Cross

1 (Jury not present)

2 THE COURT: Grab a quick lunch and Mr. Hill, I will  
3 give you 40, 45 minutes. I'll check the weather. It started  
4 snowing already again, but I want to at least use some of that  
5 time.

6 MR. HILL: I may be able to finish, your Honor.

7 MR. YALOWITZ: Your Honor, I just want to say one  
8 thing about Mr. Hill's line of examination.

9 THE COURT: Yes.

10 MR. YALOWITZ: I am very, very concerned. I think  
11 that he has gone way, way far afield of the actual testimony of  
12 Mr. Shrenzel. This business about people injured being  
13 eligible for martyr payments -- there is no evidence that any  
14 of the suicide terrorists in this case were injured. They all  
15 died.

16 So for Mr. Hill to start talking about a thousand  
17 people injured -- the only purpose of it is to try to inject  
18 politics into the case, and I think that -- I understand the  
19 Court wants to give him some leeway, but he has already gone  
20 way outside where the Court said he is permitted to go. I  
21 think he needs to be admonished. Quite frankly, if he does it  
22 again, I think he needs to be admonished in front of the jury.

23 THE COURT: I think in regard I'll limit it to that  
24 specific examination. With regard to that portion of his  
25 examination, he utilized the exhibit that you put in evidence,

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FlqQsok3

SHRENZEL - Cross

1 it's statistics that you relied upon and he asked what were  
2 relevant questions, and I think are relevant considerations for  
3 the jury as to whether or not martyr payments means terrorists  
4 or means something broader than that.

5 I think he has a right to make that point and both  
6 sides have a right to argue what they will from that evidence  
7 and from the fact that your witness acknowledged that martyr  
8 does not mean terrorist and martyr in and of itself and people  
9 who receive death benefits or injury benefits are people who  
10 are terrorists and people who are not terrorists, as you have  
11 defined.

12 So those are appropriate issues before the jury. You  
13 put before it the jury. You put through this document and used  
14 this document. The document is in evidence. As I say, as I  
15 will always let you do, you can read from it, do whatever you  
16 want from it once it's in evidence. I don't think the nature  
17 of these questions in that regard with regard to those issues  
18 were out of bounds or inappropriate.

19 (Continued on next page)

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1           MR. YALOWITZ: Well, I think there were a number of  
2     questions where he started in with assassinations, where he  
3     started in with settlers, and it is clear that what he is  
4     trying to do is suggest to the jury that they should bring  
5     politics into this case instead of focus on the evidence. I  
6     think your Honor was correct to sustain some of the objections.  
7     I appreciate it. I think he should be forewarned that if he  
8     tries to pull that kind of stunt again, there is going to be a  
9     consequence in front of the jury.

10          THE COURT: I don't disagree with your general  
11     premise. I did sustain your objection. I did warn Mr. Hill.  
12     I don't expect that line of questioning to be placed in this  
13     case before this jury. I don't think I have to say it, but I  
14     will say, in general, that if my orders are not followed, there  
15     will be consequences. I made it clear. I don't want any of  
16     those kinds of questions. The way the questions were phrased,  
17     they were loaded questions, the best I can describe it, and I  
18     thought that the first couple of questions that he asked with  
19     regard to the area were sufficient, but as he tried to  
20     characterize it and put it in the context, which I agree with  
21     you was a political context, I believe that those questions  
22     were inappropriate. I sustained the objections. I warned him.  
23     I admonished him. If it continues, I will take stronger  
24     action. Get some lunch and we will be back.

25           (Luncheon recess)

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F1Q8SOK4

Shrenzel - cross

1 AFTERNOON SESSION

2 1:15 p.m.

3 THE COURT: Let's bring in the jury.

4 (Jury present)

5 ISRAEL SHRENZEL, resumed.

6 THE COURT: Mr. Hill, you can continue.

7 MR. HILL: Thank you, your Honor.

8 BY MR. HILL:

9 Q. Good afternoon, Mr. Shrenzel.

10 Before we broke we were talking about payments to  
11 families of martyrs, and, in fact, those payments that were  
12 made are actually quite small, aren't they?

13 A. You should show me some more accurate figures. It depends  
14 on the period, the time, maybe the financial situation of the  
15 PA at the time. You should always measure it according to the  
16 necessities or the cost of living in the territories.

17 Q. Let's take a look at what is in evidence as Plaintiffs'  
18 Trial Exhibit No. 62. If we could look at page number 9133.

19 This is the document that pertains to Said Ramadan,  
20 correct?

21 A. Yes, it is.

22 Q. You can see that when the switch was made to the martyrs  
23 and the injured, that the amount of money he began receiving in  
24 June of 2002 was 686.48 shekels, right?

25 A. Yes.

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F1Q8SOK4

Shrenzel - cross

1 Q. In U.S. dollars that would be about \$175 a month, right?

2 A. Yes.

3 Q. Now, before he died in January of 2002, he was being paid  
4 964.69 shekels per month, right?

5 A. Yes.

6 Q. That's only about \$250 per month, right?

7 A. Yes.

8 Q. So Said Ramadan's family actually got less money after he  
9 died than what he earned prior to his death, right?

10 A. That's what this chart reflects, yes.

11 Q. Let's look at Plaintiffs' Trial Exhibit No. 23, which is  
12 also in evidence.

13 This is the martyr's file for Mohamed Hashaika,  
14 correct?

15 A. Yes.

16 Q. Mohamed Hashaika was the bomber in the March 21, 2002  
17 attack, right?

18 A. Yes.

19 Q. Let's look at page 7307.

20 Do you see under approval of the general director  
21 where it says his family receives a monthly allowance of 600  
22 shekels?

23 A. I see it, yes.

24 Q. Again, that's \$150 a month?

25 A. Yes.

1492

F1Q8SOK4

Shrenzel - cross

1 Q. On the top of this form it says his parents are alive and  
2 he has four siblings who are students. Do you see that, sir?

3 A. I see.

4 Q. So that's \$150 for a family of six?

5 A. Yes, that's what it says.

6 Q. Let's look at what is evidence as Plaintiffs' Trial Exhibit  
7 No. 22. This is the martyr's file for Ali Ja'ara, right?

8 A. Yes.

9 Q. Ali Ja'ara was the bomber who did the January 29, 2004  
10 bombing, right?

11 A. Yes. The attack that we have discussed today, yes.

12 Q. Let's look at page number 7292.

13 Do you see under approval of the general director  
14 where it says his family also receives an allowance of 600  
15 shekels per month?

16 A. Yes, I see it. But let me just say that, if you want to be  
17 very accurate, we must maybe check what happened after 2004.

18 Q. These are the documents that Mr. Yalowitz examined you  
19 about, right, sir?

20 A. OK. If you want to have an accurate picture of what a  
21 family is getting, so maybe there is a possibility of an  
22 increase.

23 Q. Let's look at the prior page.

24 Do you see that Mr. Ja'ara had a father, a mother, and  
25 four siblings?

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F1Q8SOK4

Shrenzel - cross

1 A. Yes.

2 Q. For that entire family, they were paid 600 shekels a month,  
3 right?

4 A. OK. But without getting into specific details, I assume  
5 they had other sources of income, from the PA or maybe from  
6 other sources, yes.

7 Q. Let's go back to page 7293.

8 Do you see at the top, next to the part that's been  
9 blacked out, where it says the house of the martyr's father was  
10 blown up?

11 A. Yes.

12 Q. It was the Israeli army that did that, right?

13 MR. YALOWITZ: Objection.

14 THE COURT: Overruled.

15 A. I am not aware of all the details. There are cases when  
16 houses of terrorists are demolished. I don't know about this  
17 specific case.

18 Q. But there were cases during the Second Intifada where the  
19 houses of terrorists were demolished by the Israeli Army,  
20 right?

21 MR. YALOWITZ: Objection.

22 THE COURT: Overruled.

23 You can answer.

24 A. I didn't look in-depth to the issue of house demolishing  
25 during the Second Intifada.

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F1Q8SOK4

Shrenzel - cross

1 Q. But you're aware, sir, that as a general matter, there were  
2 a number of occasions --

3 MR. YALOWITZ: Objection.

4 Q. -- where the Israeli Army demolished the homes of people  
5 who committed acts of terrorism or were suspected of doing so,  
6 right?

7 THE COURT: Overruled.

8 A. Yes. But it should be looked at in a more detailed manner.  
9 Sometimes the house was blown up because other terrorists maybe  
10 found harbor there. Sometimes it's kind of a punitive action.  
11 I really don't know. I am not familiar with the specifics of  
12 the house of the father.

13 Q. Let's go back to the prior page.

14 Sir, you're not saying that anyone else in  
15 Mr. Ja'ara's family was suspected of terrorism, are you?

16 A. Again, please.

17 Q. You're not saying that any of these other people in  
18 Mr. Ja'ara's family are suspected of terrorism, are you?

19 A. I am not saying the opposite as well. I didn't look at any  
20 information about his -- maybe one of his brothers was also  
21 involved. How can I tell without checking it?

22 Q. Sitting here today you can't tell the jury that Mr.  
23 Ja'ara's house was destroyed because somebody else was a  
24 terrorist, right?

25 A. There are 2.5 million citizens in the West Bank. I didn't



1495

F1Q8SOK4

Shrenzel - cross

1 check each of them in preparation for this testimony. So I  
2 cannot say if Moussa Ja'ara was also involved in what Israel  
3 perceived as terrorist activity.

4 Q. Let's look at Plaintiffs' Trial Exhibit 159.

5 This is a GIS file, right?

6 A. Yes.

7 Q. This one is for Mohamed Mousleh, correct?

8 A. Yes.

9 Q. Let's look at page 10001.

10 A. Could you please enlarge it for me a little bit? Thank  
11 you.

12 Q. Do you see in the third sentence where it says the army  
13 demolished his house about two months ago?

14 A. Yes. But this is another -- OK.

15 Q. Again, that was the Israeli Army that was doing that whole  
16 demolition?

17 A. The word army means the Israeli Army.

18 Q. Let's look at what is in evidence as Plaintiffs' Trial  
19 Exhibit 130.

20 This is another GIS file?

21 A. Yes.

22 Q. This one is for Hilmi Hamash?

23 A. Yes.

24 Q. Let's look at page 9873.

25 MR. HILL: If we could enlarge the bottom portion

1496

F1Q8SOK4

Shrenzel - cross

1 where it says "text of report."

2 Q. Do you see, sir, in the fourth sentence, "The  
3 aforementioned was arrested in his home two years ago. His  
4 house, in the al-Dheisheh refugee camp was demolished." Do you  
5 see that?

6 A. Yes. It was demolished. Yes, I see it.

7 Q. His home was demolished by the Israeli Army, right?

8 A. Yes, it was. It was one of the means that Israel had to  
9 resort to in order to confront this really terrible and  
10 horrifying wave of terrorist attacks. So in order to take some  
11 detriment measures, this was one of them.

12 Q. You also testified about some of the things that were  
13 written in some of the martyr files, right?

14 A. Yes, sir.

15 Q. Now, these martyr files are actually a form, right?

16 A. Yes. OK.

17 Q. You mentioned a couple of sometimes that the PA is a  
18 bureaucracy like other governments, right?

19 A. Yes.

20 Q. It has government forms, right?

21 A. Yes.

22 Q. Let's take a look at one of these which is in evidence,  
23 Plaintiffs' Trial Exhibit 60.

24 MR. HILL: Justin if we can show this page and then  
25 show the Arabic version side by side.

1497

F1Q8SOK4

Shrenzel - cross

1 Q. You can see the Arabic version of this document has  
2 portions that are preprinted and portions that are handwritten,  
3 right?

4 A. Yes.

5 MR. HILL: Justin, if we can turn to the next page on  
6 both of them.

7 Q. Because it's Arabic, the portions that are on the left in  
8 the English are on the right in the Arabic, right?

9 A. Correct.

10 Q. Again, what we can see here, we have got a form with  
11 typewritten information and handwritten information, correct?

12 A. Yes.

13 Q. And the way this works is that when someone is killed,  
14 their family comes into the Martyrs Institute and they fill out  
15 an application for benefits, right?

16 A. Yes, or the secretary does it, yes.

17 Q. So what we have actually got here is an application for  
18 martyrs' benefits, right?

19 A. Yes. OK. This is an application, but I'm not sure that it  
20 is written only according to what the family states. Maybe  
21 it's verified and then moves along to be ratified by the  
22 institute itself.

23 Q. Well, you have never actually worked for the Institute for  
24 the Families of Martyrs and the Injured, right?

25 A. Again, please.

1498

F1Q8SOK4

Shrenzel - cross

1 Q. You work for Israel, right?

2 A. I think that's evident, yes.

3 Q. You have never worked for the PA?

4 A. Well, if peace survives, I will be happy to do it, but so  
5 far unfortunately not.

6 Q. You have never actually been to an office of the Martyrs  
7 Institute, have you?

8 A. No, I haven't been inside.

9 Q. You have never spoken to anyone who works at the Martyrs  
10 Institute?

11 A. No.

12 Q. You have no idea if they verify the information that is  
13 submitted on the application, do you?

14 A. No. I think they verify it because you have the decision.  
15 We also read decision of the department. He is acknowledged as  
16 a martyr. So if it's not verified so everyone can come in and  
17 say, my son died of a certain disease and I want him to be  
18 considered as a martyr. This is not the case. They must look  
19 and find out that really this person was the shooter in the  
20 case, in the event.

21 Q. No one has ever told you that, correct?

22 A. What?

23 Q. No one has ever told you they have verified the identity of  
24 the shooter, right?

25 A. No, but you can deduct it very clearly if you see the

1499

F1Q8SOK4

Shrenzel - cross

1 information. Then there is the commendations of the  
2 supervisor.

3 Q. So that's a deduction you have made, right?

4 A. Yes.

5 Q. It's based on reading the document?

6 A. It's based on logic, yes.

7 Q. It's not based on anything else?

8 A. Sometimes logic is enough.

9 Q. The information under the heading "short biography," that's  
10 information that's provided by the family, right?

11 A. I'm not sure. I cannot say for sure.

12 Q. You don't know?

13 A. I don't know to what extent other people in the office are  
14 involved.

15 Q. You have no idea how that information got there?

16 A. No. For example, he was a corporal. I believe if the  
17 family said he was a major, it wouldn't have been written down  
18 that way. What I say is I think, or I assume, or I believe  
19 that the Palestinian Authority give credit to the family's  
20 version, but up to a certain extent. And information regarding  
21 his military career, etc. is being checked either in this way  
22 or another.

23 Q. But that's just what you think based on reading the  
24 document, right?

25 A. Yes.

1500

F1Q8SOK4

Shrenzel - cross

1 Q. I want to talk about a different agency.

2 A. Also about the logic of bureaucracy all over the world.

3 Q. Let's talk about a different bureaucracy. This one is  
4 called the Ministry of Detainees Affairs and Ex-Detainees  
5 Affairs. You talked about that one, right?

6 A. Yes.

7 Q. This is another agency of the PA?

8 A. Yes.

9 Q. You have also never been to a Ministry of Detainees Affairs  
10 office, right?

11 A. No, I haven't.

12 Q. You have never talked to anyone from the Ministry of  
13 Detainees Affairs?

14 A. As far as I recall, no.

15 Q. The Ministry of Detainees Affairs, like the Martyrs  
16 Institute, also has preprinted forms, right?

17 A. You can show me and I will confirm it.

18 Q. Let's look at what is in evidence as Plaintiffs' Trial  
19 Exhibit No. 76, at page 9304.

20 MR. HILL: Justin, if we can see the English  
21 translation side by side with the Arabic version.

22 Q. Do you see that, sir?

23 A. Yes.

24 Q. This is another form that has some typewritten information  
25 and some handwritten information, right?

1501

F1Q8SOK4

Shrenzel - cross

1 A. Yes.

2 Q. This particular form pertains to someone called Nasser  
3 Aweis, right?

4 A. Yes.

5 Q. As you can see on the Arabic -- again, remembering that  
6 right is right and left is left -- the blanks that are filled  
7 in are the name of the detainee, their number, and their  
8 province, right?

9 A. Yes.

10 Q. So in the example we have before us, the only information  
11 filled in by the person filling out the form was the name of  
12 Nasser Aweis, his identity number, and the fact that he was  
13 from the Nablus Balata refugee camp, right?

14 A. Yes.

15 Q. The rest of it is just something that is on the form?

16 A. Yes.

17 Q. So when Mr. Yalowitz asked you about whether or not Nasser  
18 Aweis was detained in the prisons of the Israeli occupation as  
19 a result of the fight for his country, he was just reading you  
20 language on a form, right?

21 A. Yes. But it relates to -- there is a connection. You have  
22 to connect the dots between what is on the form and what was  
23 filled in the blanks. The whole idea of the form is this  
24 person convicted in an Israeli jail, for multiple cases of  
25 murder I remind you, he is considered to be serving his prison

1502

F1Q8SOK4

Shrenzel - cross

1 because of his, as it says here in the translation, his fight  
2 for his country.

3 Q. But this is the form used for all security detainees,  
4 right?

5 A. Maybe. I don't know. Maybe there are some diversions, but  
6 basically yes.

7 Q. So if someone is imprisoned by the Israelis for throwing  
8 stones at soldiers, the form would be exactly the same, right?

9 A. I don't know. You have to show me.

10 Q. You don't know?

11 A. I cannot say for sure.

12 Q. That's because all you're doing is reading the document,  
13 right?

14 A. No. I read this document so I related to this document.  
15 If you can show me a document of the stone thrower, I will  
16 relate to it happily.

17 Q. And the other documents we looked at, where people were  
18 imprisoned as a result of the fight for their country, it's the  
19 same form, isn't it?

20 A. OK.

21 Q. No one at the Ministry of Detainees Affairs is making a  
22 determination about whether or not Nasser Aweis was fighting  
23 for his country, right?

24 A. Yes. But the very fact that they chose this definition is  
25 of importance as well. And they know -- they didn't change the



1503

F1Q8SOK4

Shrenzel - cross

1 form because they didn't -- when the family came, they didn't  
2 say, hey, wait a minute, you are a murderer, we cannot say that  
3 you love your country, how can you love your country and then  
4 kill innocent people in the center of Jerusalem? They didn't  
5 do it. They attached his information to this form. So the end  
6 result is very clear. The PA is stating that he is serving  
7 multiple cases in prison, multiple imprisonment verdicts in  
8 prison because of his love of his country. That's their  
9 definition. If you want to show me about stone throwing, let's  
10 see it.

11 Q. There is a similar form for released prisoners, right?

12 A. Again, please.

13 Q. There is a similar form for released prisoners, right?

14 A. Just remind me.

15 Q. Let's look at what is in evidence as Plaintiffs' Exhibit

16 No. 26. If we can look at page 7740.

17 A. I'm with you, sir.

18 Q. Again, this is another form that has handwriting and typing  
19 on it?

20 A. Yes.

21 Q. This one pertains to ex-detainees?

22 A. Yes.

23 Can you enlarge it a little bit.

24 Q. Yes.

25 The language about completing his sentence in the

1504

F1Q8SOK4

Shrenzel - cross

1 prisons of the Israeli occupation as a result of his fight for  
2 his country, that's language that's on the form, right?

3 A. Yes.

4 Q. Sir, you mentioned that a number of the General  
5 Intelligence Services files would reference a person's security  
6 status or moral status, right?

7 A. Yes.

8 Q. And you also mentioned that that is usually a reference to  
9 their conduct in prison, right?

10 A. Yes.

11 Q. Now, these GIS files that you have reviewed and have been  
12 admitted in evidence, these are not publicly available in  
13 Palestine, right?

14 A. They probably are not.

15 Q. These are the General Intelligence Services' private  
16 records on individuals, right?

17 A. Yes.

18 Q. You would agree with me that one issue that all  
19 intelligence agencies are concerned about is traitors, right?

20 A. Yes.

21 Q. Even Israeli intelligence worries about traitors, right?

22 A. It's not the only subject, thank God, but I agree with you.

23 Q. Intelligence agencies worry about certain characteristics  
24 or qualities that might allow a foreign government to co-opt or  
25 blackmail a citizen, right?

1505

F1Q8SOK4

Shrenzel - cross

1 A. Yes, that's possible, yes.

2 Q. For example, during the 1950s, the U.S. State Department  
3 believed that any U.S. citizen who was a homosexual could be  
4 blackmailed by the USSR and forced to spy for the Soviets,  
5 right?

6 MR. YALOWITZ: Objection.

7 THE COURT: Sustained. Let's get out of the 50s.

8 Q. During this period of time, Israel was able to convince  
9 some Palestinians to spy for Israel, right?

10 A. Of course, yes.

11 Q. One of the ways Israel was able to convince Palestinians to  
12 spy for Israel was threatening to expose their moral problems,  
13 right?

14 A. No. There is no evidence in the documents of the GIS. Now  
15 you're referring me to the issue of how Israel recruited  
16 allegedly informants and this is not -- my testimony didn't  
17 deal with it at all.

18 Q. For example, the Israelis would try and recruit informants  
19 who were gay by threatening to expose the fact that they were  
20 homosexuals?

21 A. I'm not aware of that.

22 MR. YALOWITZ: Objection.

23 THE COURT: Sustained.

24 MR. YALOWITZ: I object to the line.

25 Q. Let's look at what is in evidence as Plaintiffs' Trial

1506

F1Q8SOK4

Shrenzel - cross

1 Exhibit 148.

2 This is the GIS file for Mohamed Hashaika, right?

3 A. Yes.

4 Q. And Mohamed Hashaika was the bomber on the March 21, 2002  
5 attack?

6 A. Yes.

7 Q. Let's look at page 9953.

8 MR. HILL: Can you cull up the sentence that says "the  
9 mother of the aforementioned."

10 A. The mother is morally corrupt, that line?

11 Q. That one right there. "His mother is morally corrupt,"  
12 that line.

13 It says, "His mother is morally corrupt and there are  
14 security suspicions against her. She used to use her house as  
15 a brothel because the father is not sane."

16 That's what it says, right?

17 A. Yes.

18 Q. You also testified about promotions that prisoners  
19 received, right?

20 A. Yes, of course.

21 Q. And you testified about a promotion that Ahmed Barghouti  
22 received while he was in jail?

23 A. Yes.

24 Q. Let's take a look at what is in evidence as Plaintiffs'  
25 Trial Exhibit No. 36C. Look at page 8964.

1507

F1Q8SOK4

Shrenzel - cross

1 MR. HILL: Justin, if you can cull up the part under  
2 promotions there.

3 Q. On the last line it indicates he received a promotion from  
4 first sergeant to warrant officer by order 15999/3. Do you see  
5 that?

6 A. Yes.

7 Q. It also indicates it was pursuant to presidential orders,  
8 right?

9 A. Yes.

10 Q. Let me show you what is in evidence as Exhibit 105.

11 Do you see on the sign there, sir, where this  
12 administrative order indicates that it is number 15999/3?

13 A. Yes.

14 Q. You would agree with me that the order that is Exhibit 105  
15 is the same order that's being referred to in Exhibit 36C,  
16 right?

17 A. Yes.

18 MR. HILL: Now if we could see the text from Exhibit  
19 105.

20 Q. It says, "The following first sergeants named in the  
21 attached addendum from the roster of units that appears next to  
22 their names followed by northern governorates are promoted to  
23 the rank of warrant officer effective the date listed next to  
24 their name with regard to rank, and November 1, 2008."

25 Do you see that, sir?

1508

F1Q8SOK4

Shrenzel - cross

1 A. I do.

2 MR. YALOWITZ: Objection. Would it be possible to  
3 allow the witness to see the entire document on this one?

4 THE COURT: If you want to show him the entire  
5 document, you can when you examine him.

6 Q. The next sentence says says, "The total number of promoted  
7 first sergeants is 1,484," right?

8 A. Yes.

9 Q. "The list begins with First Sergeant Mohamed Awad and ends  
10 with First Sergeant Yusuf Al-Halahleh."

11 Let's go to page 9508 of Exhibit 105.

12 This is a page of this order promoting 1484 people,  
13 right?

14 A. Yes.

15 Q. Ahmed Barghouti is number 1,052 on the list. He is  
16 actually on the next page.

17 Do you see that?

18 A. I see it.

19 Q. Let's go back to the first page.

20 You mentioned that this promotion was pursuant to  
21 presidential orders, right?

22 A. That's what was written on the document.

23 Q. But this document, the actual order, it doesn't have  
24 President Abbas's name on it, does it?

25 A. It's some discrepancies in your client's bureaucracy.

1509

F1Q8SOK4

Shrenzel - cross

1 Q. It's just a bureaucracy. President Abbas didn't promote

2 Ahmed Barghouti, did he?

3 A. No, he did.

4 Q. Because he promoted 1400 other people on the same day?

5 A. Of course he didn't interview each of them, but the basic  
6 idea in my testimony was that while most of the others, I'm not  
7 sure -- I didn't check the list, but most of them were in  
8 service allegedly. This Ahmed Barghouti was in an Israeli  
9 jail, and he was promoted while serving multiple imprisonment  
10 life sentences in Israeli jail. That's the point.

11 Q. And he was promoted along with 1484 people who were  
12 promoted on the same day?

13 A. The question is why, why was he promoted while being in an  
14 Israeli jail, while not being able to serve on the ground?

15 Q. Let's look at another one. Let's look at Plaintiffs' Trial  
16 Exhibit 48.

17 MR. HILL: If we can cull out the section under  
18 promotions.

19 Q. This pertains to Ahmed Salah, right?

20 A. Yes, sir.

21 Q. This one indicates that he was promoted from first warrant  
22 officer to honorary lieutenant by order number 4610/3, right?

23 A. Yes.

24 Q. Let me show you Exhibit 104, which is also in evidence.

25 This is another one of these administrative orders,

1510

F1Q8SOK4

Shrenzel - cross

1 right?

2 A. Yes, it is.

3 Q. Similar to the one we just looked at?

4 A. Yes.

5 Q. This one is numbered 4610/3, right?

6 A. Yes.

7 Q. So that's the same order that was referenced in the  
8 document about Ahmed Salah that we just looked at?

9 A. It is.

10 Q. This one indicates that the following first warrant  
11 officers named in the attached addendum from the roster of  
12 units that appears next to their names, followed by northern  
13 governorates, are hereby promoted to the rank of honorary  
14 lieutenant effective the date next to their names with regard  
15 to rank and July 1, 2009 with regard to salary. Do you see  
16 that, sir?

17 A. Yes.

18 Q. Now, as you mentioned, a warrant officer is an enlisted  
19 person, right?

20 A. Yes.

21 Q. And armies around the world differentiate between enlisted  
22 men and officers, right?

23 A. Yes, sir.

24 Q. And the highest rank for an enlisted man in the Palestinian  
25 Army is a first warrant officer, right?



1511

F1Q8SOK4

Shrenzel - cross

1 A. Yes.

2 Q. So then you can't be promoted above that unless you become  
3 an officer, right?

4 A. Yes.

5 Q. In this instance, all of the first warrant officers on this  
6 list are being promoted to something called honorary  
7 lieutenant, right?

8 A. Yes.

9 Q. That's a title that's given to someone who has served so  
10 long that they have exceeded the rank of first warrant officer,  
11 right?

12 A. Or maybe they excelled in their service. I don't know.

13 Q. You don't know?

14 A. The exact reason why -- probably there were other  
15 candidates. Why were those 540 something chosen to be  
16 promoted?

17 Q. Do you know why Palestinians are promoted?

18 A. Seniority, maybe excellence in service, I don't know.

19 Q. Do you know if Palestinian promotions are based on merit?

20 You don't know, right?

21 A. What do you mean I don't know?

22 Q. You have never worked for this agency, you don't know how  
23 they decide to promote people, do you?

24 A. I have a general idea. It's seniority, sometimes  
25 excellence, and sometimes carrying out acts of terror. This is

1512

F1Q8SOK4

Shrenzel - cross

1 the main point of my argument.

2 Q. But that's your view. You you have never actually worked  
3 for this office that makes the promotions, have you?

4 A. Well, may I ask you not to ask me a question if I was  
5 employed by the PA. This is ridiculous.

6 Q. This is cross-examination, sir. You have never worked for  
7 this office, right?

8 A. Right.

9 Q. You have never been to this office, right?

10 MR. YALOWITZ: Objection.

11 THE COURT: Mr. Hill, you're cutting off the answer.

12 A. What is the point of asking me about being --

13 THE COURT: Sir, you can't talk when I am talking.

14 One person at a time.

15 Q. You have never worked for the office that issued this  
16 order, right?

17 A. No, I didn't.

18 Q. You have never been to that office, right?

19 A. No, I haven't been there.

20 Q. You have never spoken to anyone who works in that office,  
21 right?

22 A. This I cannot relate to.

23 Q. You don't know if you have spoken to somebody who works in  
24 this office?

25 A. I cannot relate to. I cannot tell you everything I did

1513

F1Q8SOK4

Shrenzel - cross

1 during my 20 years of service under the Israeli Intelligence  
2 and Israeli Army. I am not allowed to tell you everything I  
3 did or did not.

4 Q. The document says the number of promoted first warrant  
5 officers totals 547, right?

6 A. Yes.

7 Q. It again tells us who is first and who is last, right?

8 A. Yes.

9 Q. Let's look at page 9506.

10 Ahmed Salah, who we are talking about, he is number  
11 366 out of 547 on this list?

12 A. Again, please.

13 Q. Ahmed Salah, who we have been talking about, he is number  
14 366 out of 547 on this order, right?

15 A. Yes.

16 Q. I am going to ask you a couple of questions about the March  
17 21 attack.

18 You remember that Mr. Yalowitz had something up on the  
19 screen that had the pictures of alleged perpetrators on it?

20 A. I do.

21 Q. One of those pictures was a picture of someone named Tawfiq  
22 Tirawi, right?

23 A. Yes.

24 Q. Now, Mr. Tirawi was not convicted in connection with the  
25 March 21, 2002 attack, was he?

1514

F1Q8SOK4

Shrenzel - cross

1 A. Unfortunately, Israel was not able to capture him.

2 Q. He was not convicted in connection with the March 21, 2002  
3 attack, was he?

4 A. And as a result of being uncaptured, he was not indicted  
5 and neither convicted, yes.

6 Q. So Tawfiq Tirawi was not convicted in connection with the  
7 March 21, 2002 attack, right?

8 A. As I said, he was not convicted.

9 Q. Now, in the binder relating to the January 27, 2002 attack  
10 there was a tab about Tawfiq Tirawi, correct?

11 A. Yes, there was.

12 Q. He was not convicted in connection with the January 27,  
13 2002 attack either, right?

14 A. Just because he was not brought to justice, he was not  
15 indicted about it.

16 Q. He was never charged and he was never convicted in  
17 connection with the January 27, 2002 attack, correct?

18 A. Yes. But let's be accurate. Because he was not in the  
19 hands of the Israeli authority. That's the only reason. Were  
20 he captured by the Israelis, as we really like to do, he would  
21 have been indicted. And, OK, I don't want to predict the  
22 possible hypothetical results of the trial, but we have strong  
23 evidence to his terrorist activity.

24 Q. Mr. Shrenzel, Tawfiq Tirawi was not convicted of the  
25 January 27, 2002 attack, was he?

1515

F1Q8SOK4

Shrenzel - cross

1 A. The way you phrase the question might imply that he was  
2 charged or was at trial and was not convicted. There was no  
3 trial. He was not in our hands. So he was not convicted.  
4 That's it.

5 Q. Mohamed Hashaika was the bomber for the March 21, 2002  
6 attack?

7 A. Yes.

8 Q. At one point in time, Hashaika was a corporal in the  
9 Palestinian police in Bethlehem, right?

10 A. Yes.

11 Q. But at the time of the attack on March 21, 2002, he was not  
12 a PA police officer, correct?

13 A. Again, please. I'm not sure that he was from the Bethlehem  
14 area that you mentioned.

15 Q. Setting aside Bethlehem for the moment. As of March 21,  
16 2002, Mohamed Hashaika was not employed by the PA police,  
17 correct?

18 A. Yes. But he was reinstated at least, as is reflected by  
19 his salary, his family continuing to receive allocations.  
20 There was no mention that the allocations did stop or something  
21 like that.

22 Q. Let's look at Plaintiffs' Trial Exhibit 9, which is in  
23 evidence.

24 A. It will be fruitful to refresh my memory on that, yes.

25 Q. Can we look at page number 4499?

1516

F1Q8SOK4

Shrenzel - cross

1           You see, sir, that this document indicates payments

2       stopping after January of 2002, right?

3       A.   Yes.   To him personally, yes.

4       Q.   The bombing that Mr. Hashaika was involved in was in March

5       of 2002, correct?

6       A.   Yes.

7       Q.   So the documents that have been shown to the jury show that

8       as of March 2002, he was not getting paid by the PA, correct?

9       A.   Which to my opinion doesn't diminish their responsibility  
10      for his activity.

11      Q.   The documents that have been shown to the jury indicate  
12      that as of March 21, 2002, Mohamed Hashaika was not being paid  
13      by the PA, correct?

14      A.   As to this very narrow aspect of payments, yes, that's  
15      correct.   But as to the more general responsibility, and if you  
16      remember, Mr. Tirawi that you mentioned before, in a letter to  
17      Arafat he told him the matter is at your discretion.   He  
18      announced that Hashaika was detained and interrogated and the  
19      matter is at your discretion, he told the president of the PA,  
20      and the result of this discretion or the results of the deeds  
21      and misdeeds of the PA president, this person detonated himself  
22      five weeks later.

23      Q.   Let's look at Plaintiffs' Trial Exhibit 148, which is in  
24      evidence.

25           This is the GIS file for Mohamed Hashaika, right?

1517

F1Q8SOK4

Shrenzel - cross

1 A. Yes.

2 Q. Let's look at page 9953.

3 MR. HILL: Justin, can you cull out the bullet that  
4 starts with "originally"?

5 A. You bring us back to his devious mother. This is not so  
6 fair for him.

7 Q. Sir, the file says, "Originally the aforementioned intended  
8 to perform his operation in the Netanya area, and he was  
9 arrested in Tulkarm by the Palestinian Authority."

10 That's what it says, right?

11 A. Yes.

12 Q. It says, "He was transferred to Ramallah and was imprisoned  
13 there."

14 That's what it says, right?

15 A. Yes.

16 Q. It says, "During the invasion into Ramallah, he escaped  
17 from prison and intended to perform his operation through the  
18 people of the Islamic Jihad, but then the Al Aqsa Martyrs  
19 Brigades have taken him from them." Do you see that, sir?

20 A. I do.

21 Q. Mr. Yalowitz did not read that portion of the GIS file to  
22 you during direct, did he?

23 A. I have to look at the transcript again.

24 Q. Are you saying Mr. Yalowitz read the portion where it says  
25 he escaped?

1518

F1Q8SOK4

Shrenzel - cross

1 A. No. I am not saying what Mr. Yalowitz read or did not  
2 read. I just don't remember. I was here almost three days.  
3 You want me to remember every sentence that Mr. Yalowitz read  
4 from the documents?

5 Q. You would agree this is the first time the members of the  
6 jury have had their attention called to the fact that the file  
7 says escaped?

8 A. As an appreciation to your credibility, I will accept it,  
9 but I really don't recall it.

10 Q. I want to talk to you about the attack that took place --

11 A. May I explain? Do you have any questions regarding that?

12 THE COURT: It is 2:00. Unless you are going to wind  
13 up a short area, I want to let the jury go. I think a storm is  
14 coming.

15 MR. HILL: I have a little more to go.

16 THE COURT: Is it all right to break right here?

17 MR. HILL: Certainly.

18 THE COURT: Ladies and gentlemen, we are going to  
19 adjourn. Don't discuss the case. Keep an open mind. I am  
20 going to ask you to be here on Wednesday at 9:45. I heard that  
21 the schools just closed 15 minutes ago and I think this court  
22 might be closed also. So I will see you on Wednesday, we will  
23 pick up there, and hopefully we will get back on schedule.

24 (Jury exits courtroom)

25 (Continued on next page)



1519

F1Q8SOK4

1 THE COURT: I am going to let you go. The weather is  
2 getting bad.

3 Let's get together at 9:15 on Wednesday. We will have  
4 about a half hour or so.

5 MR. YALOWITZ: Did your Honor want to call the balls  
6 and strikes on those remaining cross-designations?

7 THE COURT: I still want to look at them some more.  
8 It's a little difficult because you don't go line by line for  
9 me with the cross-designations. You have sort of objected to  
10 every cross-designation.

11 MR. YALOWITZ: Maybe I am misremembering. I thought I  
12 put in a letter Saturday, your Honor, that gave -- there were  
13 about seven or eight that I objected to and the rest I had no  
14 objection.

15 THE COURT: It depends on which chart you're referring  
16 to. The chart that I thought you were referring to is what is  
17 designated as Exhibit 6.

18 MR. YALOWITZ: I don't think we need to deal with that  
19 until the defendants' case, if ever. I am only talking about  
20 in the body of my letter, I thought we were in the middle of  
21 that.

22 THE COURT: We were. I am just going to add one more  
23 right now, but I will look at that again. At this point let me  
24 tell you the ones that I thought --

25 MR. YALOWITZ: I'm sorry for the confusion. That's

1520

F1Q8SOK4

1 what I was getting at.

2 THE COURT: Just quickly, I think we addressed page 27  
3 of Jadallah. And then Al-Sheikh, 140. I don't remember what  
4 page 140 was.

5 MR. YALOWITZ: 140 looks like the witness just asks a  
6 question. He doesn't understand the question so he asks a  
7 question.

8 THE COURT: I didn't see why 140 was an appropriate  
9 designation, 21 through 25, and the next page, 5 through 14. I  
10 tend to agree with you on that, but we can discuss that  
11 further. You can look at it. I will look at it more  
12 carefully.

13 There was also another one that I had a problem with,  
14 but it was unclear to me. It was the part about the  
15 interpreter section. I think it was 204. It's unclear to me  
16 who is talking. Is this just an exchange between the lawyers  
17 and the interpreter or is this something being interpreted?

18 MR. HILL: I wasn't there. I believe it was an  
19 exchange between the lawyers and the interpreter. It's the  
20 same document that there has been testimony here about.

21 THE COURT: I know, but I have Mr. Sa'de and I have a  
22 Mr. Shihada and Mr. Tolchin. Mr. Tolchin is the lawyer.

23 MR. HILL: Sa'de is an Israeli lawyer that represents  
24 the witness and Shihada I believe was the interpreter.

25 MR. YALOWITZ: This is a lawyer and an interpreter

1521

F1Q8SOK4

1 bickering on the record.

2 THE COURT: I have some concern. We can talk about it  
3 on Wednesday. I have some concern with 204, line 4 through 12.  
4 That seems to be just a confused conversation among lawyer and  
5 interpreters. It seems to me that the answer that was given is  
6 1 through 3 and 13 through the end of the page is the answer  
7 given.

8 MR. HILL: The issue is the witness is speaking  
9 Arabic. What is happening the witness says something in  
10 Arabic, and then the interpreter interprets it, and then the  
11 lawyer disagrees with the interpretation. So if we just get  
12 the plaintiff's interpreter's view of what it means, you don't  
13 get what actually happens at the deposition.

14 THE COURT: I don't think the interpreter's  
15 interpretation of what it means is the interpreter's job. It  
16 is to interpret the words that the witness said. The question  
17 was asked. I assume that the interpreter interpreted the  
18 question to the witness, and then the answer was given when the  
19 witness said, I would like to explain. That seems to be the  
20 substantive evidence.

21 MR. HILL: Your Honor is proposing to take out lines 4  
22 through 12 and allow 13 and thereafter?

23 THE COURT: That's my inclination.

24 MR. HILL: That will be fine.

25 THE COURT: Because I was even confused in trying to

1522

F1Q8SOK4

1 figure out this exchange going back and forth between the  
2 lawyer and interpreter. I think Q and A is what goes before  
3 the jury, but let me look at the rest.

4 Mr. Yalowitz, I think that was really the only  
5 portions that I really had concern with that jumped out at me  
6 as being beyond the scope or, in fairness, not being subject  
7 matters related to issues and subjects that you want to put  
8 before the jury. I want to look at it a little more carefully  
9 and also look at it in the context of their independent  
10 designations.

11 I have been looking at the rule again. I am going to  
12 double-check the law. I could be wrong. But my understanding  
13 of the rule is, if you offer the deposition testimony, they can  
14 force you to read those portions that they say in fairness  
15 should be read at the same time, and then they have the right  
16 to read other portions from the deposition on their case that  
17 they want read.

18 MR. YALOWITZ: This is what I want to write to you  
19 about because I think it's different where I am -- it's where a  
20 party is represented at the deposition.

21 THE COURT: I know but, quite frankly, that would  
22 preclude both of your designations.

23 MR. YALOWITZ: The defendants were parties represented  
24 at deposition.

25 THE COURT: That's not what the rule says.

1523

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1 MR. YALOWITZ: Let me look at it again.

2 THE COURT: The rule says that the parties were  
3 represented there. It doesn't say just one party. I  
4 understand if you were offering this as some sort of admission  
5 or something like that by a party opponent. I don't think  
6 that's the way the rule works.

7 MR. YALOWITZ: As I said, I got this last night and I  
8 haven't drilled down into the words of the rule.

9 THE COURT: Neither have I. I have done some quick  
10 research. I can't find anything in the circuit. But my  
11 recollection of the rule, the general rule, is you can't do  
12 what you want to do, sort of I want to use the deposition and  
13 say it's fair for me to use the deposition for any portion I  
14 want to use it for, but the other side can't use it for any  
15 purpose, even though I am the one putting the witness's  
16 testimony in.

17 MR. YALOWITZ: As I said, rather than speak in the  
18 abstract, I want to look at that, give you something in  
19 writing. That's not something that we need to deal with for  
20 Wednesday because Wednesday we just have to deal with their  
21 little cross-designations. When it comes to their case in  
22 chief, they may have a narrower set of things that they want to  
23 use, and I may not actually care about it. So I will look at  
24 the law and research it and give you something in writing so we  
25 have it nailed down, but I don't think we need to deal with

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1 that bigger issue for Wednesday. But I will try to get you  
2 something. I don't know if I can get it to you tomorrow.

3 THE COURT: Quite frankly, they are a little bit in  
4 the same situation. If they say you can put your stuff in,  
5 then I guess they can say they can put their stuff in. But  
6 they can't say you can't put your stuff in, but we can put our  
7 stuff in. It doesn't work that way. Either it's all in or  
8 it's all out. You can't just pick and choose and decide you  
9 object to the other side's and you just want yours.

10 MR. YALOWITZ: Let's both look at it, and we will both  
11 be more educated when we have done that.

12 MR. ROCHON: I am just rising on a scheduling issue.  
13 If this was the District of Columbia, the court would be closed  
14 about a month. On the off-chance that Wednesday is an issue,  
15 how do we learn that? Does the court contact us?

16 THE COURT: We will try to contact you as soon as we  
17 know. Quite frankly, the last time we had a snow day, we were  
18 told 5:00 in the morning the court wasn't going to open.

19 Also, there is a phone number we can give you to call  
20 that will say whether the court is open or closed.

21 MR. ROCHON: That will be great.

22 THE COURT: Otherwise we will reach out to you to let  
23 you know as soon as we know.

24 MR. ROCHON: Thank you. .

25 (Adjourned to January 28, 2015, at 9:15 a.m.)

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F1S8SOK1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 MARK I. SOKOLOW, et al.,

4 Plaintiffs,

5 v.

04 CV 397 (GBD)

6 PALESTINE LIBERATION  
7 ORGANIZATION, et al.,

8 Defendants.

-----x

January 28, 2015  
9:15 a.m.

10 Before:

11 HON. GEORGE B. DANIELS,

12 District Judge

13 APPEARANCES

14 ARNOLD & PORTER LLP  
15 Attorneys for Plaintiffs  
16 BY: KENT A. YALOWITZ  
17 PHILIP W. HORTON  
18 TAL MACHNES  
SARA PILDIS  
CARMELA T. ROMEO  
RACHEL WEISER

19 MILLER & CHEVALIER, CHARTERED  
20 Attorneys for Defendants  
21 BY: MARK J. ROCHON  
22 LAURA G. FERGUSON  
BRIAN A. HILL  
MICHAEL SATIN  
DAWN E. MURPHY-JOHNSON

23 Also present: RACHELLE AVITAL, Hebrew interpreter  
24 RINA NE'EMAN, Hebrew interpreter

25  
SOUTHERN DISTRICT REPORTERS, P.C.  
(212) 805-0300

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1 (Trial resumed; jury not present)

2 THE COURT: Good morning.

3 Let me put aside the issue of the deposition  
4 designations. I guess they go into three categories. One,  
5 whether they should be allowed at all; two, whether or not in  
6 fairness the plaintiffs should read a portion at the same time  
7 when they read their portion; and, three, whether or not it's  
8 admissible on the defendants' case.

9 The first objection by the plaintiff to the  
10 designation by the defendant is Jadallah, and I partially agree  
11 with the plaintiff.

12 MR. YALOWITZ: I apologize. I am having a little  
13 trouble hearing you over this machine.

14 THE COURT: All right. I will keep my voice up.

15 On the designation on page 27, I think the portion on  
16 27 and the top of 28 in fairness should be read at the same  
17 time. It's the same inquiry about the financing.

18 The portion that is at the bottom, line 17 through the  
19 next page, line 10, I don't think given the way the answer was  
20 given he has any basis one way or the other to make these  
21 statements. Clearly not firsthand knowledge.

22 The question was whether or not moneys in any currency  
23 transferred from the Palestinian National Authority directly or  
24 indirectly to the Al Aqsa Martyrs Brigades for the time period  
25 1999 to 2005.

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1 Unless you can tell me on what basis he has some  
2 personal knowledge of every single transfer, whether direct or  
3 indirect, that went to the Al Aqsa Brigade, I don't think he  
4 has any firsthand knowledge of that.

5 MR. HILL: If I could address that. He does explain  
6 the answer on 129. He is saying that because by law they are  
7 only allowed to transfers moneys for things that are in the  
8 budget and that thing was not in the budget, therefore, there  
9 were no transfers that day as a matter of law. That is what he  
10 is saying. He does have personal knowledge of that because he  
11 works in the finance ministry and manages the budget.

12 THE COURT: I take that not in support of your  
13 position but in opposition of your position. If that's the  
14 basis on which he is giving that testimony, that's further  
15 evidence that it's not direct evidence of his knowledge of  
16 whether or not there was money transferred, directly or  
17 indirectly, to the Al Aqsa Martyrs Brigades. Then there would  
18 be some logical conclusion for him to draw, but that is clearly  
19 not the fact. He makes clear he doesn't know. He says just  
20 because it's not in the budget line, it never happened. He is  
21 not in the position to say that.

22 That's the basis on which he is saying he is basing  
23 that answer and that's not a direct, nonhearsay knowledge that  
24 gives him a basis to say, therefore, because it's not a line in  
25 the budget he concludes that no money was ever transferred,

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1 directly or indirectly, to the Al Aqsa Martyr Brigades.

2 MR. HILL: I think it's a lay opinion that the jury is  
3 entitled to hear based on his knowledge, and I would ask the  
4 court, if not requiring the plaintiffs to read it now, allow us  
5 to read it in our case when we read the other portions.

6 THE COURT: No. I have considered it. I don't think  
7 there is a basis for a lay opinion on this fact. It's either  
8 fact or not a fact. He has no layperson's opinion as to  
9 whether or not the Al Aqsa Martyrs Brigade got the money. If  
10 someone slipped him money, then the best he can say is he did  
11 it to the best of my knowledge.

12 MR. HILL: What is he saying is if it was done, it was  
13 done contrary to the law and the budget.

14 THE COURT: No. He said it wasn't done. That's part  
15 of the problem. He said there is no money transferred to  
16 anything other than what is in the budget. He doesn't know  
17 that. He has no basis. It's not even a legitimate opinion.

18 MR. HILL: He does, your Honor, because he  
19 administered the budget during the relevant time frame.

20 THE COURT: He doesn't know what happened to the money  
21 after it's transferred to the budget line or if someone else  
22 decides to give the money to the Al Aqsa Martyrs Brigades. He  
23 is saying all he knows is it's not a budget line so they must  
24 not have gotten the money.

25 MR. HILL: We think it is relevant and probative and

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1 based on his personal knowledge. I understand the court's  
2 ruling.

3 THE COURT: That part is out.

4 MR. YALOWITZ: Do we end with the answer on 15?

5 THE COURT: You end it at 11 on 28.

6 I think the continued Q and A about the budget matter  
7 on 188, I think that that is an appropriate part of that  
8 discussion that the plaintiff wants to read. That portion  
9 should be read.

10 I am not going to require the plaintiff read the 192,  
11 line 21. It's likely I will let the defendant read the rest of  
12 it, if they want to read it, but the exchange about the  
13 intifada, I don't think the plaintiff should be required to  
14 read that. If the defendants want that read --

15 MR. YALOWITZ: Where are we?

16 THE COURT: I'm on page 192.

17 MR. YALOWITZ: Are we on Al-Sheikh?

18 THE COURT: No, Jadallah.

19 MR. YALOWITZ: Your Honor, I'm sorry. I thought we  
20 were on 188 through 190 for Jadallah. Maybe I am just  
21 looking -- maybe we are looking at different sheets.

22 THE COURT: We are because I am at 192. Are you on  
23 192 to 193?

24 MR. YALOWITZ: Not on Jadallah. Let me look at  
25 Al-Sheikh.

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1 THE COURT: Am I correct from defendant you were  
2 seeking to offer Jadallah, I have 188 through 193.

3 MR. YALOWITZ: 190, line 2.

4 THE COURT: 192, line 22. You don't have that.

5 MR. YALOWITZ: No, sir.

6 THE COURT: Is that a portion that the defendant  
7 designated?

8 MR. HILL: Bear with me, your Honor.

9 THE COURT: You just have 188 through 190. Does that  
10 mean you don't have any objection to 190 through 193? I have  
11 190 through 193.

12 MR. YALOWITZ: What it is intended to mean is that  
13 when they sent me an e-mail Friday night saying, these are in  
14 fairness designations, this chart was the limit of their in  
15 fairness designations.

16 THE COURT: That's not the limit of what I have been  
17 given.

18 Do you have a copy of this?

19 MR. YALOWITZ: I have that in the back, your Honor.

20 THE COURT: We will skip over that.

21 MR. YALOWITZ: They put that aside and said that's not  
22 part of our in fairness designations.

23 They can pop up and say no, it is, but I think the  
24 record in the correspondence between us is that their in  
25 fairness designation ends at 190, line 2, and I think their

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1 silence on that is an admission here. If they have some other  
2 documentation that they did send me that, I am pleased to be  
3 corrected.

4 THE COURT: What did you intend, Mr. Hill?

5 MR. HILL: We did intend to stop for the in fairness  
6 portions at 190, line 1. We intend to offer this portion in  
7 our case.

8 THE COURT: OK.

9 Then Al-Sheikh, I looked at that a little more  
10 carefully. On Al-Sheikh, I think the plaintiffs, if you're  
11 going to read page 5, I think you should read page 14. And I  
12 think you should read page 15. I don't think the plaintiffs  
13 should have to read pages 16, 17.

14 MR. YALOWITZ: I think the problem here, your Honor,  
15 is somehow what the defendants have given you is broader than  
16 what their in fairness designations are.

17 THE COURT: That might be my mistake by not reading  
18 the correspondence.

19 MR. YALOWITZ: There has been so much paper flying at  
20 you.

21 THE COURT: Do I have a copy of that letter? Was that  
22 letter sent to me?

23 MR. YALOWITZ: Yes.

24 THE COURT: No. The defendants' letter that you say  
25 you got narrowing the request, did I get a copy of that?

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1 MR. YALOWITZ: It's an e-mail that somebody on Mr.  
2 Rochon's team sent to me on Friday night. Then I reproduced it  
3 in my chart.

4 THE COURT: I am still going off of the yellow and the  
5 green.

6 MR. YALOWITZ: It's overbroad. What you have got in  
7 front of you is their whole everything designations, not their  
8 in fairness.

9 So I am happy to either hand you up a copy of my  
10 letter, which I think with one exception we talked about  
11 faithfully reproduces their request, or I can just read it out  
12 to you and we can go line by line.

13 THE COURT: If there is something at issue still, you  
14 have to tell me. Because you gave me a letter that said that  
15 you objected to all the pages 72 through 74.

16 MR. YALOWITZ: I was going to take you there, your  
17 Honor.

18 With regard to Al-Sheikh, we have got one, two, three,  
19 four, five. We have got passages where we are in dispute. We  
20 have got a bunch of passages where they have made an in  
21 fairness counterdesignation and I have said fine, I don't care.  
22 It's not like I am fighting them on every single one.

23 THE COURT: You had no objection to most of it.

24 MR. YALOWITZ: Right.

25 So 72, 14, through 74, 6, we talked about. My big



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1 problem with part of that is that Al-Sheikh doesn't have any  
2 personal knowledge of some of the things he says. And they  
3 never foundationalize him. He says all of the PA's buildings  
4 were destroyed. How could he know that? They didn't ask him  
5 did you take a census or anything like that. If he wants to  
6 say the political situation is unstable, he knows about that,  
7 but all their buildings were destroyed?

8 THE COURT: I don't know if he doesn't know about  
9 that. I don't know how many buildings we are talking about and  
10 I don't know whether he got up and went to work one day and all  
11 the buildings were destroyed. I don't have any basis to say  
12 that's hearsay. The question was asked and there was no  
13 objection.

14 MR. YALOWITZ: I am sorry?

15 THE COURT: The question was asked and there was no  
16 objection on that basis.

17 MR. YALOWITZ: This is as if the witness is sitting in  
18 the courtroom. So all objections are preserved except to form.

19 THE COURT: But sometimes you made objections and  
20 sometimes you didn't.

21 MR. YALOWITZ: I wasn't at these depositions.

22 THE COURT: I understand, but the lawyers sometimes  
23 make objections and preserve those objections for later on.  
24 That was not an objection made at the time to the answer.  
25 Nobody said objection, hearsay, but go ahead and answer the

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1 question anyway. I don't have any basis to read this to  
2 conclude that this is hearsay.

3 MR. YALOWITZ: I am not saying it's hearsay; I am  
4 saying he has no personal knowledge.

5 THE COURT: That's hearsay.

6 MR. YALOWITZ: He could be making it up.

7 THE COURT: But I don't know. Why would I conclude  
8 that? I would only exclude it if I had a basis to conclude  
9 that either he is making it up or somebody told him this rather  
10 than this is something that he saw. I can't take this as  
11 opposed to anything else he said and assume that this is  
12 supposed to be hearsay. He says the buildings were destroyed.  
13 I assume that he knows that the buildings were destroyed.

14 MR. YALOWITZ: Let me explain my thought process and  
15 we will be guided by you on this obviously, but let me take you  
16 to what my thinking is as to why I think it is an inappropriate  
17 counterdesignation.

18 Number one, it's not responsive to the question. So  
19 this is just something that the witness blurts out, number one.

20 Number two, because the defendants are offering it  
21 affirmatively, they are offering it affirmatively, it's their  
22 burden to make some establishment that he knows what he is  
23 talking about. All they have to do is say, in cross at the end  
24 of the deposition, now you said some stuff, how do you know  
25 that? They chose not to do that because he is their witness,

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1 he is their employee. They figure they can bring him to trial.

2 THE COURT: This was the plaintiffs' examination.

3 MR. YALOWITZ: It was not a plaintiff in this case.

4 THE COURT: You can't use that for any purpose at this  
5 point because you want this transcript in evidence. And you  
6 can't argue I should allow it in evidence but at the same time  
7 I am supposed to somehow say that you didn't have an interest  
8 in making an appropriate record here because you weren't the  
9 party. You are the one that wants this deposition in. You  
10 can't have it both ways. It's either in fairness a deposition  
11 that the parties can use against or for both sides or it's not.

12 MR. YALOWITZ: Look, I don't want to get ahead of  
13 myself because I do want to put something in. We have been  
14 looking at that question and we have found some cases. I  
15 believe I will be able to put something in in the next day or  
16 two on that very topic.

17 My problem with this particular thing is it's not  
18 responsive to the question. I am just talking about this line.  
19 It's not responsive to the question. His testimony is he got  
20 paid for six years. Then there was this period of time when he  
21 was in transition, and they asked him a question about -- the  
22 question I have a problem is, they say, How long was the period  
23 of time? And he never answers that question.

24 THE COURT: He says he didn't know.

25 MR. YALOWITZ: Right.

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1 THE COURT: Then the question was --

2 MR. YALOWITZ: Then they say, well, do you mean nobody  
3 knew? He says, no, I mean all the buildings were destroyed.

4 THE COURT: That plaintiffs' attorney asked him the  
5 question, Do you mean that nobody knew how long the period was  
6 that you could continue receiving a salary? He asked him what  
7 he meant and his response was, this is what I mean. That was  
8 directly responsive to the question. He said there was so much  
9 confusion and violence going on, all the buildings got  
10 destroyed. That's why I can't tell you exactly when it did  
11 because there was chaos when all the buildings were destroyed.  
12 That's directly responsive to the question.

13 MR. YALOWITZ: I understand the ruling. Let's keep  
14 going.

15 THE COURT: You might convince me if they want it  
16 read, maybe they can read it themselves, but that's awkward  
17 given the line of questioning.

18 MR. YALOWITZ: We will deal with the logistics. We  
19 will figure out the logistics. Let's keep going.

20 THE COURT: Then you said 140.

21 MR. YALOWITZ: Hold on one second. 122, I don't have  
22 a problem with their counterdesignations, but there is some  
23 additional things I want to read just to put them in context.  
24 I don't think there is a problem with that.

25 THE COURT: Make sure they know what you're completely

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F1S8SOK1

1 going to read and if there is objection, let me know. If they  
2 say, because you want to read more, they have some other  
3 counterdesignations, you can let me know. But why don't you  
4 discuss that with them before you discuss that with me. If  
5 there is no problem, then you don't even have to discuss it  
6 with me.

7 MR. YALOWITZ: They will let me know if they have a  
8 problem with it; otherwise, I will assume that what is in my  
9 letter is OK.

10 MR. HILL: If it's page 122, lines 12 to 23, I do not  
11 object to that being read at the same time.

12 THE COURT: Is that it?

13 MR. YALOWITZ: The other one we have is 123, lines 7  
14 through 16. I am not hearing any objection from the defense on  
15 that.

16 THE COURT: He is still reading.

17 MR. HILL: You should read through 19 so you can get  
18 the whole answer. Otherwise, it's fine.

19 MR. YALOWITZ: This is the first I heard that they  
20 have a problem with this.

21 THE COURT: If you two would talk to each other a  
22 little more, it wouldn't be the first that you have heard.

23 MR. YALOWITZ: That's fine.

24 I think your Honor has already ruled on 140 and 141.

25 THE COURT: 140 and 141, their designations you do not

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F1S8SOK1

1 have to read.

2 MR. YALOWITZ: Then we are on 154, line 23, through  
3 156, line 2.

4 THE COURT: I don't have a real problem with the  
5 admissibility of this testimony. I am just not sure in  
6 fairness it should be your burden to read it. If they want it  
7 in, they should read it.

8 I don't have a strong opinion about it. Some of it  
9 does relate to budget, but I think a different kind of point is  
10 being made. I think the point that is being made is making the  
11 points about spending money for humanitarian aid and all that  
12 kind of stuff. Obviously, it doesn't advance your argument one  
13 way or the other whether or not money is going to Al Aqsa.

14 MR. HILL: It would affect the issue whether the money  
15 was given with the knowledge that it would be used for  
16 terrorism as opposed to some other purpose.

17 THE COURT: That's what I said. It may be something  
18 that you believe is relevant to put in, but in fairness it's  
19 not necessarily what he should be required to read.

20 MR. HILL: The reason we contend it is in fairness is  
21 because as the examination continues, Mr. Al-Sheikh is  
22 confronted with two documents that are already in evidence here  
23 and asked about who the payments are made to. So the jury is  
24 entitled we believe to hear Mr. Al-Sheikh's explanation that  
25 those were humanitarian in nature as opposed to what Mr.

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1 Yalowitz intends to argue, that they were in support for  
2 terrorism.

3 THE COURT: I don't know what part you're talking  
4 about because the designations I have, literally from page  
5 147 -- the designations I have from pages 153 through 175 are  
6 all your designations.

7 MR. HILL: Yes, sir.

8 THE COURT: I don't know which question you're talking  
9 about.

10 MR. HILL: Particularly, we are talking about 154,  
11 line 23, through 156, line 2.

12 THE COURT: What are you saying is being inquired  
13 about there?

14 MR. HILL: Mr. Al-Sheikh is being asked about requests  
15 he would make to Yasser Arafat for payments to certain people.  
16 This is on 155, line 8. For instance, I used to present to Abu  
17 Ammar humanitarian aid. In this instance I presented to him  
18 people. Let's say, he would wire to each person \$600,000.

19 THE COURT: I didn't follow your point. You said he  
20 was being asked by the plaintiff and then you quoted me this  
21 portion that you wanted read. What is the part --

22 MR. HILL: That it relates to?

23 THE COURT: Yes.

24 MR. HILL: If you look at page 202.

25 THE COURT: It's a little awkward to say it relates to

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F1S8SOK1

1 something that is 20 pages later.

2 MR. HILL: He says, What is this document? I  
3 presented this to Yasser Arafat, financial aid for certain  
4 people. So this is the type of document on 202 that he is  
5 being examined about, that he is earlier more generally being  
6 examined about on pages --

7 THE COURT: Where does it say that? What line is a  
8 line that one would say is the type of document or the type of  
9 payment that he was shown?

10 MR. HILL: Following on then, on page 203, he  
11 identifies the handwriting. Then we get to line 16. He says,  
12 What did you write in this letter? The answer on line 18 is, I  
13 requested from Abu Ammar to allocate money for three people.

14 So this is a specific example of the general practice  
15 of requesting humanitarian aid.

16 THE COURT: What difference does it make whether it's  
17 humanitarian aid or not humanitarian aid for the jury to  
18 understand the process that is being required here?

19 MR. HILL: It makes a difference because the  
20 plaintiffs are arguing, as I understand it, that these payments  
21 to persons who are not perpetrators in this case are somehow  
22 relevant to whether or not the PA or PLO was supporting  
23 terrorism. So the jury in fairness should hear the testimony  
24 from Mr. Al-Sheikh that these requests for payments are in fact  
25 humanitarian in nature, in contrast to what the plaintiffs want



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F1S8SOK1

1 to argue is that they support terrorism.

2 THE COURT: I understand your point. The distinction  
3 that I am not following is that why is the jury entitled to  
4 hear it from the plaintiff?

5 MR. HILL: Because in fairness they should be told  
6 that the documents that they are hearing testimony about  
7 starting on page 202 are characterized by the witness as  
8 humanitarian requests on the earlier pages of the transcript.

9 THE COURT: He never references that document before  
10 he is shown that document. He never says that's a humanitarian  
11 payment. Where does he say that this document corresponds to a  
12 humanitarian payment?

13 MR. HILL: He is talking about a general practice of  
14 requesting humanitarian payments and later in the examination  
15 he is confronted with the specific details.

16 THE COURT: No, he is confronted with a document. It  
17 doesn't say I am showing you a document that represents  
18 humanitarian payments.

19 MR. HILL: Page 202, line 16: I presented this Yasser  
20 Arafat, financial aid for certain people.

21 THE COURT: The question is what is this document? He  
22 doesn't say it is humanitarian aid. He says I presented this  
23 to Yasser Arafat, financial aid for certain people.

24 MR. HILL: Yes, sir.

25 THE COURT: The jury understands that. I'm not quite

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F1S8SOK1

1 sure what that whole line of questioning somehow clears up for  
2 the jury that they don't understand given what they know about  
3 this case.

4 As I say, they haven't convinced me that you're wrong,  
5 that it's relevant, if you want to argue about that point and  
6 you want to say that this makes that point. But I think that's  
7 for you to put forward as an explanation and for you to read  
8 and it's not their responsibility to do it. It's not their  
9 position, that's for sure.

10 MR. HILL: It's definitely not their position. That's  
11 why we thought in fairness it should be included, but I  
12 understand the court's ruling.

13 MR. YALOWITZ: So this whole thing is out, your Honor,  
14 154 through 158?

15 THE COURT: You will not be required to read it, but I  
16 don't want to mislead you that it's out when it's likely to  
17 come in.

18 MR. YALOWITZ: We will get you something on that. We  
19 have looked at it a little bit, and I feel pretty good about  
20 our position, but I want to give it to you in writing.

21 THE COURT: Then I think the last objection you had, I  
22 think we addressed it.

23 MR. YALOWITZ: I think you ruled on that, that  
24 translators and lawyers bickering is not evidence.

25 THE COURT: Only those portions that I specifically

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F1S8SOK1

1 indicated, like the translated portion, I think is out for all  
2 purposes. There is no reason for either side to read that.

3 I don't remember if I identified any specific others,  
4 but you can let me know if I missed something. But that pretty  
5 much is going to be my general position.

6 If you want to give me something further to try to  
7 preclude them from offering any deposition testimony, my view,  
8 unless I see something more specific, my view is under the  
9 rule, particularly the subdivision (6), using part of a  
10 deposition, it says: If a party offers in evidence only part  
11 of a deposition, the adverse party may require to offer or to  
12 introduce other parts that in fairness should be considered  
13 with the part introduced, and any party may itself introduce  
14 any other parts.

15 MR. YALOWITZ: My focus, just so we are clear, and we  
16 will get you cases because the cases address this, my focus is  
17 part (a)(1).

18 THE COURT: My focus is part (6).

19 You put in the deposition testimony. (a)(1) deals  
20 with whether or not it's going to be admissible and on what  
21 basis it's going to be admissible.

22 MR. YALOWITZ: It's three legs of the stool. You have  
23 to have all three. Leg number one, the party was present. I  
24 don't meet that.

25 THE COURT: Then you shouldn't use it. You want me to

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F1S8SOK1

1 exclude it? I can't let you have it in and you argue that you  
2 don't meet the requirement for it coming in.

3 MR. YALOWITZ: They don't meet the requirement. I do.  
4 Because it may be used against a party.

5 I am going to giving something in writing. I  
6 understand that there is an open question about this and if we  
7 use the depositions, I understand there is an open question.

8 THE COURT: I can't quite tell from what you have  
9 given me and reading the transcript, I don't even know -- I  
10 assume you are contending that this is somehow 30(b)(6)  
11 witnesses, all of them, and this is somehow admissions by the  
12 defendant.

13 MR. YALOWITZ: Right.

14 THE COURT: But I don't know who is a 30(b)(6)  
15 witness. You may tell me everybody who you designate is a  
16 30(b)(6) witness in some case. You can understand my position,  
17 even if you disagree with it, that, look, no, can't do that.  
18 You can't just say I have got an admissible portion of a  
19 deposition, but they should be precluded, the rule precludes  
20 them from offering in fairness any other portion of that  
21 deposition. That's not what the rule says. The rule says just  
22 the opposite. It says, if you designate a portion of the  
23 deposition, they can ask you to in fairness introduce other  
24 portions, and they can introduce any other parts of the  
25 deposition. That's what the rule says.

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1           If you have a case that says they are precluded from  
2   doing that, I would like to see it because I have not found  
3   such case in the Second Circuit.

4           Do you have a such a case in the Second Circuit?

5           MR. YALOWITZ: I don't know about a Second Circuit  
6   case. I have cases from other judges of this court.

7           THE COURT: If you have something that specifically  
8   says that, then let me see which one of my colleagues said that  
9   and the reason they said it and see if I agree with it.

10          MR. YALOWITZ: We have got to look at it. I don't  
11   think it's a clear-cut. There is no answer from the Second  
12   Circuit on this. So we will just have to look at it. I am  
13   going to get you something in writing.

14          I understand the defendants' position. I think I have  
15   support for my position. I understand if we offer these  
16   depositions, that question hasn't been answered.

17          THE COURT: Unless there is a rule, and I don't see  
18   anything in the rule precluding it, my position is this. It  
19   doesn't matter on what basis you get to use part of a  
20   deposition. Once you get to use part of a deposition,  
21   regardless of what basis it comes in, then (6) applies, that  
22   you can use the part of the deposition for whatever reason you  
23   say it's admissible. And if you do that, they have the right  
24   to demand in fairness that you not give partial answers, that  
25   you give the complete answers. And the rule says once you put

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1 the deposition in evidence, a portion that you want, they have  
2 the right to offer any other admissible portion.

3 MR. YALOWITZ: OK. First of all, what I understand  
4 the rule to do is, if you meet (1)(a), which we have to give  
5 you some cases on whether they can meet (1)(a), but if you meet  
6 (1)(a), then it's as if the witness is sitting there on the  
7 stand. So they still have to have personal knowledge.

8 THE COURT: I don't say that they meet (1)(a). You  
9 meet (1)(a). You are the one offering this deposition. They  
10 didn't raise this issue. You have to meet (1)(a). You have to  
11 tell me you have a basis on which to say this deposition is  
12 admissible. You say you have a basis. I understand your  
13 basis. Once you give me a basis for admitting the deposition,  
14 then the rules apply as to how that deposition is going to be  
15 used. And they don't apply by saying, well, you get to pick  
16 the stuff out of the deposition that you want to read, but they  
17 can't counterdesignate anything they say in fairness should be  
18 read and they can't offer any other portions of that deposition  
19 that you have indicated to this jury that they should rely on  
20 as admissible evidence.

21 MR. YALOWITZ: I want to give you something in writing  
22 on this because I think the case law says, or some of the case  
23 law says -- I think they cited an Eighth Circuit case from 1982  
24 or something that says what you're saying, but I think the more  
25 recent case law from this district says the opposite. I

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1 haven't looked at it. I have got somebody looking at it.

2 THE COURT: Just give me a cite and I will read that  
3 case as soon as I have a free moment.

4 MR. ROCHON: I have nothing on that. I have one other  
5 short thing.

6 THE COURT: We are still short jurors. We still have  
7 three or four that we are still waiting for.

8 MR. ROCHON: With the first three witnesses, when they  
9 finished all their testimony, Mr. Yalowitz thanked them in  
10 various degrees of heartfeltness, but unfortunately in the  
11 presence of the jury right here. I would like to avoid that  
12 going forward. I think the thanks to the witness departing  
13 really shouldn't happen in front of the jury. And it becomes  
14 more important as we come to the plaintiffs which is going to  
15 be far more emotional testimony, more intense. I don't think  
16 that should happen in the presence of the jury.

17 THE COURT: Mr. Yalowitz, can you take this issue out  
18 of this case.

19 MR. YALOWITZ: I think you're allowed to show  
20 affection to your client in front of the jury. I understand  
21 why --

22 THE COURT: You have got a case for that?

23 MR. YALOWITZ: I have never looked at it because I  
24 have never had anybody say I don't want them to do that.

25 THE COURT: As I say, you both can't have it both

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F1S8SOK1

1 ways. I am doing my best to try to make sure this jury decides  
2 this case on the substance and on the merits and without any  
3 emotionally or politically charged issues that others may bring  
4 into this case. I think if you want me to do that and protect  
5 you from them doing that, then I have to apply the rules  
6 straight across-the-board.

7 There is no utility for you to thank the witness in  
8 front of the jury for anything. I don't care who it is. Let's  
9 just leave that out. Everybody leave that out. Let the  
10 witnesses come in, give their testimony, let them leave.  
11 Whatever you want to say to them, comfort them or do whatever  
12 else you want to do outside the presence of the jury.  
13 Otherwise we run a risk.

14 MR. YALOWITZ: Frankly, every time I do a normal thing  
15 I get something an application to the court to have me not do  
16 it. When we said terror cell, we had a problem with that. We  
17 don't say the word terrorism. We had a problem with that.  
18 Don't comfort your client? We are going to have people weeping  
19 on the witness stand and I am supposed to stand there like a  
20 automaton.

21 THE COURT: You're supposed to be professional. I  
22 have had plenty of experience with emotional witnesses and if  
23 it's necessary, we can take a break. We can offer them water.  
24 We can offer them a tissue. We can do whatever you want to do.  
25 But it's not your time to do anything of greater significance



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1 in front of the jury. If you want a break to comfort your  
2 witness, then you ask for a break and we will take a break and  
3 then you can say or do whatever you think is appropriate to  
4 compose your witness.

5 You may not like them picking at you, but you don't  
6 need this in this case and it's not an appropriate place for it  
7 in this case. OK?

8 MR. YALOWITZ: I will abide by the court's instruction  
9 on this. I have to tell you, I am very disappointed in the  
10 professionalism of the defense.

11 THE COURT: You have told me that 20 times already. I  
12 don't know what you want me to do with it. If you want to  
13 vent, I will give you another couple seconds to vent. But it  
14 doesn't affect my judgment to make sure this case is fairly  
15 presented.

16 MR. YALOWITZ: I don't want to vent. I want there to  
17 be a consequence the next time we get a politically loaded  
18 question, the next time we have questions that are designed to  
19 elicit sympathy for the Palestinian people. It's not relevant  
20 to this case how many people were injured.

21 THE COURT: Mr. Yalowitz, if you think that somehow I  
22 have been unfair in my rulings, I have handled the lawyers one  
23 way differently than I handled their lawyers, you can point  
24 that out to me and I will attempt to do a better job. I have  
25 tried to across-the-board, in fairness, treat those issues the

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1 same. I just can't hear from you that you want to see me pick  
2 on them.

3 MR. YALOWITZ: I think you have fairly warned them. I  
4 think you have appropriately sustained objections. I am not  
5 complaining about that. I am looking to the future, not the  
6 past.

7 In the future, I don't want to hear those kinds of  
8 politically loaded questions, politically loaded behavior, and  
9 I think that they need to be -- they are saying, oh, we don't  
10 want Yalowitz to say thank you to the witness. Well, I don't  
11 want the defendants asking inappropriate questions that you  
12 have repeatedly ruled are inappropriate and that from the very  
13 beginning they have said they weren't going to do. They stood  
14 up here and said it's not appropriate to bring politics into  
15 this case. And then you heard his questions.

16 THE COURT: What else do you want me to do about it,  
17 Mr. Yalowitz?

18 MR. YALOWITZ: I think if they do it again, they  
19 should be admonished in front of the jury.

20 THE COURT: If you do it, should I do the same thing?

21 MR. YALOWITZ: I welcome the same level of scrutiny.

22 THE COURT: I will take the action that I deem is  
23 appropriate at the time and the action that I think is  
24 warranted by the extent of the egregiousness of the conduct and  
25 to the extent that I don't unduly prejudice either side by

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1 inappropriately admonishing you or Mr. Rochon or Mr. Hill or  
2 anybody from either side with regard to an issue.

3 MR. YALOWITZ: Nobody could ask for anything better  
4 than that.

5 THE COURT: I intend to do that.

6 Did you have something, Mr. Rochon?

7 MR. ROCHON: Only if the court needed me to respond to  
8 anything.

9 THE COURT: No. If you could just quickly respond, do  
10 you have any position with regard to the letter that I received  
11 about Dr. Perry or Dr. Strous?

12 MR. HILL: Dr. Perry is a treating physician who  
13 treated Shaul Mandelkorn. As your Honor knows, Shaul  
14 Mandelkorn is not U.S. national and his claims have been  
15 dismissed. So our position is that we should not be hearing  
16 testimony from the treating physician of Shaul Mandelkorn about  
17 injuries to Shaul Mandelkorn.

18 THE COURT: It depends. If the injury is supposed to  
19 be as a result of PTSD that Leonard Mandelkorn saw his son  
20 experience, who is supposed to give me testimony that Shaul has  
21 PTSD?

22 MR. HILL: My position is whether or not Shaul as a  
23 technical matter has PTSD is irrelevant to Leonard Mandelkorn's  
24 damages. Leonard Mandelkorn's damages will be based on his  
25 knowledge of his son, his interactions with his son. And

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F1S8SOK1

1 Leonard Mandelkorn will be able to testify about his injuries.

2 Now, Dr. Strous has also evaluated Leonard Mandelkorn.

3 I have no objection to Dr. Strous testifying about Leonard  
4 Mandelkorn's injuries. However, I do have an objection to Dr.  
5 Strous testifying about Shaul Mandelkorn's injuries, and for  
6 that matter, Leonard Mandelkorn's wife Nurit's injuries.

7 So to the extent people are no longer plaintiffs, our  
8 position is that doctors are not to be testifying about  
9 injuries, be they mental or physical or economic, to  
10 nonplaintiffs.

11 THE COURT: In the abstract, and I don't have as much  
12 detail as you, but in the abstract I don't have a problem if  
13 the plaintiff believed that they have a sustainable theory that  
14 the injuries suffered by Leonard Mandelkorn was as a result of  
15 observing and having knowledge of the condition that his son  
16 suffered as a result of the incident. I think that is a  
17 legitimate issue on which they should have the right to present  
18 evidence.

19 So I don't know to what extent that they intend to go  
20 into the, as you say, injury of Shaul, but I think that it  
21 doesn't preclude someone explaining, an expert or treating  
22 physician explaining what condition that Shaul Mandelkorn was  
23 experiencing that caused the injury to Leonard.

24 Now, I don't know to what extent they want to go  
25 through these. I don't know there is much relevance beyond

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F1S8SOK1

1 explaining what his condition was and what symptoms manifest  
2 itself, to the extent that those are symptoms that, a condition  
3 about which Leonard had knowledge and adversely affected  
4 Leonard to the extent that he suffered injury that should be  
5 compensated in damages.

6 So unless you can articulate something specifically  
7 that he is going to say, where I can either rule that's in or  
8 that's out, I think they have some leeway with regard to  
9 presenting some basic information about what physical or  
10 emotional condition that manifested itself, or of which Leonard  
11 was aware, that they claim caused Leonard injury that they are  
12 seeking to have compensated.

13 MR. HILL: Part of this is I don't know exactly what  
14 Dr. Perry is going to say, but as I understand it, Dr. Perry  
15 did not treat Leonard Mandelkorn, and the plaintiffs can tell  
16 me if I am wrong about that. So I don't see how Dr. Perry, as  
17 the treating physician for Shaul, will have personal knowledge  
18 of the effect of Shaul's injuries on Leonard. That's my  
19 objection to Dr. Perry.

20 THE COURT: It seems to me that it's admissible within  
21 the area of being in the abstract admissible, that the doctor  
22 says, look, I don't know about Leonard, and I don't know what  
23 Leonard is going to say, but I can tell you that Shaul had X  
24 condition and X symptoms. Now, to the extent he says that, and  
25 to the extent that Leonard testifies that I was emotionally

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F1S8SOK1

1 damaged knowing that my son had this condition and seeing the  
2 symptoms of how they manifest, I think the jury has some right  
3 to understand what that is, particularly if they are going to  
4 make some assessment beyond what Leonard just happens to say  
5 that my son was depressed every day and that made me depressed.

6 Well, that doesn't tell me the extent of this  
7 depression. It doesn't tell me what caused this depression.  
8 They even have a causation issue to address to show that the  
9 cause of the PTSD is the terrorist act for which the defendants  
10 are responsible, the knowledge of which or experience of which  
11 caused Leonard's compensable injury.

12 MR. HILL: I understand your Honor's ruling.

13 Let me raise one other issue, which is Dr. Perry also  
14 apparently intends to testify about the reputation of Stuart  
15 Scott Goldberg.

16 THE COURT: I didn't follow that at all.

17 MR. HILL: I don't think that should be admitted.

18 THE COURT: I just don't know the relevance of that  
19 issue.

20 MR. HILL: Mr. Goldberg is also not an American  
21 national and his claims and the claims of his estate were  
22 dismissed by your Honor. So, therefore, we don't think his  
23 professional reputation is relevant to any issues.

24 THE COURT: Even if he was here, what is his  
25 professional reputation, you want to put that in issue?

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F1S8SOK1

1           MR. YALOWITZ: Let me pass over the reputation. I  
2 will just tell you what we learned from Perry. Perry actually  
3 shared office space with Goldberg and so he saw the family in  
4 the aftermath of the murder of Goldberg.

5           THE COURT: Goldberg is not in this case.

6           MR. YALOWITZ: The whole family is. So he can give a  
7 before and after. It goes to what they lost.

8           (Continued on next page)

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F1sQsok2

1 (Jury not present)

2 THE COURT: The way you characterized it is that there  
3 were long-term injuries suffered by Leonard and that Peri is  
4 going to talk about the professional reputation of Scott  
5 Goldberg. I am sure you are not saying that they damaged his  
6 reputation, and that's what caused injury to his family.

7 MR. YALOWITZ: No. What I was thinking last night --  
8 and I may stand corrected on this: There are two things, one  
9 of which I think may be out, and one of which I think is  
10 definitely in.

11 So what I was thinking was in but may be out now that  
12 your Honor has asked me about it is the lost earnings of  
13 Goldberg himself, his lost earnings.

14 THE COURT: Right.

15 MR. YALOWITZ: Which his reputation would go to.

16 THE COURT: But who damaged his reputation?

17 MR. YALOWITZ: No. No. He had a fine reputation. He  
18 had a nice practice. He had a lot of patients coming to him,  
19 and, therefore, he had good earning potential; not that anyone  
20 hurt his reputation but that he had good earning potential.

21 THE COURT: I understand it a little better now, but I  
22 am not sure why that plays a part in terms of damages of the  
23 family.

24 MR. YALOWITZ: I think you may be right about that.

25 THE COURT: They could not sue for his lost earnings.



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F1sQsok2

1 MR. YALOWITZ: I think you're right. I think that  
2 part is wrong.

3 The other thing though is that he knew the family; he  
4 saw the circumstances of the family. It is a classical sort of  
5 wrongful death. They were a nice family. They were close.  
6 They came to the office afterward, and he could give a little  
7 perspective on who he was.

8 THE COURT: We can discuss further whether any of that  
9 would be admissible, but that's not what you addressed in the  
10 letter.

11 MR. YALOWITZ: I apologize for that.

12 THE COURT: I wasn't clear.

13 All our jurors are here. Let's go back to cross and  
14 then we will proceed.

15 (Continued on next page)

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1559

F1sQsok2

1 (Jury present)

2 THE COURT: Good morning. Luckily, the weather wasn't  
3 as bad as it was predicted, but I think it was prudent for us  
4 to adjourn until today. We are ready to proceed. I appreciate  
5 your coming in even now because I know the weather is still  
6 bad. It's treacherous out there. Be careful as you're  
7 traveling.

8 At this point we are going to continue with the  
9 cross-examination by Mr. Hill and hopefully we can make up some  
10 of the time.

11 ISRAEL SHRENZEL, resumed.

12 CROSS-EXAMINATION

13 BY MR. HILL:

14 Q. Good morning, Mr. Shrenzel.

15 A. Good morning to you.

16 Q. I'd like to talk to you about the attack on June 19, 2002.  
17 The binder for that attack mentions just one individual who was  
18 involved in that attack. Sa'id Awada, correct?

19 A. Yes.

20 Q. Sa'id Awada was not a PA employee as of June 19, 2002,  
21 correct?

22 A. Yes. He was 17 years old. Yes.

23 Q. He did not work for the PA, correct?

24 A. As far as I know, he didn't.

25 Q. Let's look at what's in evidence as Plaintiff's Trial

1560

FlsQsok2

Shrenzel - Cross

1 Exhibit 19. This is the martyr file for Mr. Awada, correct?

2 A. Yes.

3 Q. If we could look at wage 6828, at the top under personal  
4 information, under the heading previous employment, it  
5 indicates that Mr. Awada was a construction worker, correct?

6 A. Yes.

7 Q. You have testified about payments that were made to  
8 prisoners and their families after the attacks, correct?

9 A. Yes, I did.

10 Q. You would agree that those payments to prisoners and their  
11 families were not the direct cause of the perpetration of these  
12 attacks, correct?

13 MR. YALOWITZ: Objection.

14 THE COURT: Sustained as to the form.

15 Q. The people who committed these crimes didn't do so in order  
16 to get payments for their family while they were in prison,  
17 right?

18 A. Yes they --

19 MR. YALOWITZ: Objection.

20 THE COURT: Overruled. You can answer that.

21 A. The money issue was a factor. It was a contributing factor  
22 to their motivation, but I would like to stress that their main  
23 motivation was brought about by the deeds and misdeeds of the  
24 defendants, and the defendants did much worse things than  
25 providing salaries to the families.

1561

FlsQsok2

Shrenzel - Cross

1 Q. Sir, you would agree that the payments to prisoners and  
2 their families were not the primary objective for committing  
3 the crime, right?

4 MR. YALOWITZ: Objection.

5 THE COURT: Overruled. You can answer.

6 A. No. Although it's, of course, nice to know that once you  
7 are in jail, you get your salary or either your family is  
8 compensated and that your name is going to be attached, as you  
9 mentioned on Monday, to forms that praise you, etc., etc., but  
10 it was not the central factor.

11 The central motivation was the way the perpetrators of  
12 the attack and the planners, all the people involved that we  
13 have discussed here, what did they understand Arafat's policy  
14 from the PA leadership, what did they understand, and they  
15 understand that we are now launching a wide-scale terrorist  
16 campaign against Israel. We are supporting terrorism. We are,  
17 in fact, becoming a terrorist entity. That's what they  
18 understood. And this is far worse than post factum supplying  
19 material assistance which in itself, as I said, is a  
20 contributing factor.

21 Q. You would agree that payments of money to families of  
22 martyrs did not motivate the suicide attackers to do the  
23 attacks, right?

24 MR. YALOWITZ: Objection.

25 THE COURT: Overruled. You can answer.

1562

FlsQsok2

Shrenzel - Cross

1 A. Of course that was not a motivation. The motivation what  
2 Arafat preached, what Arafat decided, what Arafat condoned,  
3 what orders and what atmosphere was created by the PA, an  
4 atmosphere of an all-out attack against the Israel contrary to  
5 the commitment, the written commitment of the PA during the  
6 Oslo Accords' years.

7 So this shift of policy which was basically very  
8 tragic for both people, both the Palestinians and the  
9 Israelis -- this shift of policy is the main theme of the PA  
10 leadership, and, as I say, the introduction of terrorism and  
11 the fact that it -- that some of the security apparatuses  
12 become tools for terrorism, and the main organization of the PA  
13 that is identified with Fatah also became part of the terrorism  
14 machine of the PA. These are the main motivations.

15 So Palestinian operatives ask themselves, what is  
16 expected from me? Yes, in the year 2000, when it was the  
17 eruption of Fatah and forward. What is expected for me? What  
18 Arafat wants for me? What Fatah wants for me? What should I  
19 perform as a member of the security apparatuses? And the  
20 answer was: You should participate -- his understanding was:  
21 I should take active role in the attacks against Israel.  
22 That's what the main motivation.

23 OK, it's nice if I have to sacrifice my life, my  
24 family will be compensated. That's very nice, but that was not  
25 the main factor.

1563

FlsQsok2

Shrenzel - Cross

1 Q. This is not the first time you have testified in this case,  
2 is it, sir?

3 A. Yes, I have a deposition with Mr. Satin. Yes.

4 Q. You have previously testified that suicide attackers  
5 certainly didn't do so in order for their families to receive  
6 martyr payments, correct?

7 A. Yes, I did, and I stick to it. Yes.

8 Q. In fact, you testified that that would not even be logical,  
9 correct?

10 A. Yes.

11 Q. You also testified that you didn't have any evidence that  
12 the perpetrators in these cases did their crimes in order to  
13 receive prison payments, correct?

14 A. Yes -- I think I explained my position at length, and I can  
15 reiterate it. The responsibility lies with the defendants,  
16 yes, with the defendant's policy, this is the main issue: The  
17 sudden shift of death, the sudden shift of policy that resulted  
18 in Israel finding itself confronted with such a widespread  
19 terrorist attack. I don't think anyone is going to detonate  
20 himself just on the idea that his family is going to get money,  
21 yes. It's far more deep and profound.

22 Q. You testified about some language that was found in certain  
23 magazines, right?

24 A. Yes, I did.

25 Q. You don't actually know who read those magazines, right?

1564

FlsQsok2

Shrenzel - Cross

1 A. On a one-to-one basis, of course I don't know who reads The  
2 New York Times --

3 Q. You don't have any evidence that any of the perpetrators of  
4 the attacks in issue in this case actually read any of these  
5 magazines right?

6 A. No, I don't have a definite knowledge of that.

7 Q. Mr. Yalowitz read some portions of those magazines to the  
8 jury, correct?

9 A. Yes, he did.

10 Q. He did not read the entire magazine, correct?

11 A. It was up to him to choose, and I -- as I rely on you, I  
12 rely that he made it wisely, yes.

13 Q. He didn't read even the entire articles, did he?

14 A. OK. Yes.

15 Q. In some instances, he didn't even read the entire  
16 sentences, did he?

17 A. This I don't know. I really can't tell.

18 Q. Let's take a look at one. Let's take a look at Plaintiff's  
19 Exhibit 175, which is in evidence. This is one of the  
20 magazines that Mr. Yalowitz read from, right?

21 A. As I said, so much was read to my ears during these days,  
22 but I rely on you. If you said it was read, I accept it.

23 Q. Let's look at page which is page 00171 T in the middle. If  
24 you could call out that paragraph that starts with "The  
25 European nations" and highlight the portion through the word

1565

FlsQsok2

Shrenzel - Cross

1 communities.

2 So this is the portion of this magazine that  
3 Mr. Yalowitz read, right?

4 A. Yes.

5 Q. It reads: "The European nations and the U.S., who have  
6 strategic interests in the region, are called upon to see the  
7 necessity of urgent and immediate action to stop Israeli  
8 practices against the Palestinian people. Without this, their  
9 vital interests shall be directly jeopardized, and this shall  
10 redound adversely on their people's and communities."

11 Do you see that?

12 A. Yes.

13 Q. That's where Mr. Yalowitz stopped reading, right?

14 A. If you say so, OK.

15 Q. Just continue let's show the rest of the sentence.

16 The rest of the sentence says: "Since the Arab and  
17 Islamist communities in these countries play a prominent role  
18 pressuring these governments by turning out for impressive,  
19 peaceful marches aimed at getting foreign nations to exert  
20 positive and effective pressure on Israel. These communities  
21 speak the word of truth and justice in relation to our  
22 Palestinian people, who continue to suffer under the most  
23 extreme example of occupation in the world."

24 Mr. Yalowitz did not read that portion, did he, sir?

25 A. OK, yes.



1566

FlsQsok2

Shrenzel - Cross

1 Q. He also didn't read the next paragraph. Let's show that  
2 one, Justin.

3 This paragraph says: "A Real War. The Israelis  
4 consider the Palestinian Intifada to be a real war and to wage  
5 it, they utilize airplanes, tanks, rockets and all the lethal  
6 and internationally prohibited weapons. The Palestinian side  
7 considers the Intifada to be peaceful for it uses only sacred  
8 stones to wage it. It is therefore incumbent on peace-loving  
9 nations to point a finger of accusation at Barak and his  
10 military establishment, because he is an aggressor who is  
11 waging a real war against the Palestinian people."

12 Barak was the prime minister of Israel at the time,  
13 wasn't he?

14 A. Yes, he was.

15 Q. The next sentence says: "To this we say that the bloodshed  
16 of martyrs shall not being in vein, for through the  
17 accumulation of Palestinian bloodshed, we succeeded in forging  
18 the 1988 declaration of independence and succeeded in getting a  
19 real and true Palestine recorded on political and geographic  
20 maps. And through the accumulation of Palestinian bloodshed,  
21 we shall announce the establishment of our independent  
22 Palestinian state on all the lands that were occupied in 1967.

23 "The Palestinian people are among the people's of the  
24 world most deserving of independence and their martyrs,  
25 wounded, prisoners and disabled have led the way, as these

1567

FlsQsok2

Shrenzel - Cross

1 martyrs are the sons of the Palestinian state. Without them,  
2 we shall not succeed in achieving our nationalistic goals,  
3 foremost among these the establishment of an independent  
4 Palestinian state with its capital in Jerusalem. And despite  
5 all this, the Palestinian people are still striving for a just  
6 and comprehensive peace, and still seeking to reclaim usurped  
7 rights that are so inconsistent with the spilling of blood and  
8 killing of innocent children."

9 Mr. Yalowitz didn't read that section either, did he?

10 A. Yes, but let me remind you, I find it a little bit awkward  
11 that I have to relate to what Mr. Yalowitz did or didn't do. I  
12 better refer to what I did and what I said.

13 MR. HILL: I have no further questions, your Honor.

14 THE COURT: Mr. Yalowitz, any further questions?

15 MR. YALOWITZ: Briefly.

16 REDIRECT EXAMINATION

17 BY MR. YALOWITZ:

18 Q. Let me begin with Exhibit 175 that Mr. Hill was just asking  
19 about. Do you recall the date of that or should we pull it up  
20 and find it?

21 A. Yes.

22 Q. Let's pull it up and find it. Can you see it on the  
23 screen? Does it show the date?

24 A. Yes, this is of November 2000.

25 Q. Following November of 2000, as we went into 2001, 2002,

1568

FlsQsok2

Shrenzel - Redirect

1 2003, did you have the opportunity to examine these four

2 security apparatus magazines we were talking about?

3 A. Yes, I did, as I said in my direct examination.

4 Q. Could you just give your recollection of the degree to

5 which the pro-violence rhetoric -- do you recall whether the

6 rhetoric concerning violence by the Palestinian police

7 intensified, decreased? What did it do?

8 A. Yes, I believe we see a gradual degree of intensification

9 of the level of incitement of calling upon the apparatuses to

10 take part in activities against Israel; and more than that, in

11 creating an atmosphere. This is the crucial issue. There was

12 an atmosphere, either those were employees of the PA, either

13 they read it, either they were exposed to announcement by the

14 commanders that are in compliance with the messages that are

15 listed here. So the overall atmosphere grew more and more

16 violent.

17 If you check, for example, how many times the notion

18 of blood, the notion of martyrdom is repeatedly mentioned.

19 Again, we should look at it from the point of view of the

20 potential reader or the potential employee of the PA, what he

21 understands. He understands that he as a PA officer --

22 MR. ROCHON: Objection, your Honor.

23 THE COURT: Overruled.

24 A. He understands that he as an employee of the PA or as a

25 Fatah member or both, both a Fatah member and PA employee, he

1569

FlsQsok2

Shrenzel - Redirect

1 shouldn't contribute to calm down the situation he shouldn't  
2 condemn terrorist activity. He shouldn't look upon other  
3 employees who carry out suicide attacks as murderers, as  
4 criminals. He should probably himself contribute to that  
5 wide-scale attack that I have referred to previously.

6 Q. Do you recall seeing issues of these magazines calling on  
7 people to engage in liquidation or extermination or things like  
8 that?

9 MR. ROCHON: Objection. Leading.

10 THE COURT: Overruled. You can answer.

11 A. They were. They even reached that part, our part that  
12 speaks about the Jews and descendents of monkeys and pigs; that  
13 there are anti-Semitic expression. Usually they refrain from.

14 MR. ROCHON: Objection.

15 THE COURT: No, overruled. He was asked about this.

16 Q. They refrain from directly saying please go out and kill  
17 all Jews or all the Israeli citizens. But, again, it is the  
18 explicit, but no less than that, the implicit messages of these  
19 magazines. And, as I said, it is really a very -- it was, I  
20 believe, a contributing factor.

21 This accompanied the instructions. This accompanied  
22 the decision of Arafat. You see there was a political decision  
23 to launch a wide-scale attack and to support it; then there was  
24 the actual support; and then was the whole issue of propaganda,  
25 of creating the proper atmosphere in which people, for example,

1570

FlsQsok2

Shrenzel - Redirect

1 a 17-year-old former constructor would go out and detonate  
2 himself. Yes? Or a policeman as we saw, reading the Shurta,  
3 either reading -- yes, as I said, I don't have specific  
4 evidence that Said Ramadan read the specific portion, but he  
5 was exposed to the atmosphere that is reflected here; and for  
6 him it was clear, this is what my superiors expect from me.

7 MR. ROCHON: Objection, your Honor.

8 A. They want me to go out and --

9 THE COURT: No. Overruled.

10 A. -- shoot indiscriminately in the streets of Jerusalem. He  
11 also could have understood it from the spirit of the magazine.

12 Q. Now, Mr. Hill was asking you about a lot of the documents.  
13 What I would like to do, I also would like to go back to some  
14 of those documents. The way I would like to do it is to look  
15 in one of our binders. I am going to hand out to the jury our  
16 binder from the attack of March 21, 2002. I think you may have  
17 your binder handy behind you on that?

18 A. Yes.

19 MR. YALOWITZ: I need just one moment.

20 Q. Mr. Hill was asking you about whether the PA accepted or  
21 relied on the facts set forth in the martyr files. Do you  
22 remember that line of questioning?

23 A. Could you please repeat it?

24 Q. Sure. Do you remember Mr. Hill asked you some questions  
25 about the martyr files?

1571

FlsQsok2

Shrenzel - Redirect

1 A. Yes.

2 Q. The files of the martyrs?

3 A. He mainly asked about the issue that it was a prepared form  
4 and filled in, yes.

5 Q. So I just want to look with you on tab A of the Mohammed  
6 Hashaika file, the Mohammed Hashaika packet. Do I have it  
7 right, this is Hashaika's' martyr file?

8 A. You mean Exhibit 23?

9 Q. Exhibit 23, yes.

10 A. Yes, this is the martyr file. Yes.

11 Q. I think Mr. Hill was showing you page 2 to show you it was  
12 a form that was filled out by hand some of the information.  
13 Turn to the second page.

14 A. Yes, the second page is all printed. It's in English, so  
15 maybe to look at the Arabic, no?

16 Q. Sure. Definitely. Let us know when you have a chance to  
17 look at it. I want to orient us on that?

18 A. I have the same page in English and Arabic 7305.

19 Q. Do I recall correctly that Mr. Hill wanted to point out,  
20 and you agreed with him, that some of the information is filled  
21 out by hand on that form?

22 A. Yes, it is.

23 Q. Then I think you were saying, if I remember it right, that  
24 the information was then relied on and approved by some  
25 employees of the PA and the PLO?

1572

FlsQsok2

Shrenzel - Redirect

1 A. Yes, I said it's necessary to assume that, of course, the  
2 PA cannot pay just based on a statement of a member of the  
3 family.

4 Q. Is there a place in this document where the general  
5 director of this organization actually does approve?

6 A. Yes, I also pointed to it when I was asked by Mr. Hill,  
7 that after everything is reviewed, then there is -- and it's on  
8 another two pages on 7307, an approval of the general director.  
9 After weighing the evidence, the evidence provided to him, that  
10 was his decision.

11 Q. Then let's confirm on 7307 in the Arabic. Does he actually  
12 have that signature?

13 A. Yes, I have it.

14 Q. It looks like there is something, at least on the English,  
15 it says audit notes?

16 A. Audit notes.

17 Q. Do you see where I'm looking right below "approval of the  
18 general director"?

19 A. In Arabic, it's more "comments of the inquiry" or something  
20 like that.

21 Q. So what is that? Is that somebody checking up after the  
22 director approves it?

23 A. Maybe. I'm not that knowledgeable about the minute details  
24 of the Palestinian bureaucracy regarding this document, but  
25 it's clear. There are approval of the general director but

1573

FlsQsok2

Shrenzel - Redirect

1 under the audit notes, there is only a signature. Yes, so  
2 maybe it's logical it seems that there is a further check of  
3 this approval.

4 Q. So based on this document, does the PLO today pay this  
5 family every single month as a matter of policy?

6 A. Yes.

7 Q. As a policy matter, would it discourage terrorism if the PA  
8 and the PLO adopted a policy of refusing to pay the families of  
9 suicide terrorists?

10 A. Yes, this would be an indication that the PA is against  
11 terrorist attack. Yes. But this, unfortunately, was far from  
12 happening. We had all the signs of the opposite, as I tried to  
13 explain.

14 Q. Are you aware of another government anywhere in the world  
15 that pays the families of suicide terrorists every single month  
16 because they committed a suicide terror attack?

17 MR. ROCHON: Objection.

18 THE COURT: Sustained.

19 Q. Let's look at one of the prisoner files from that case. I  
20 think we can find one, if I'm remembering right, under the  
21 Nasser Shawish packet. Shawish is the second guy in. There is  
22 a picture of him with his arms crossed, and then his prisoner  
23 file looks like it's Exhibit 83 which is under tab C. Let's  
24 make sure everybody gets there.

25 A. 83. Yes, I have that.



1574

FlsQsok2

Shrenzel - Redirect

1 Q. Let's see if we can find that preprinted form which I think  
2 is on 9327. It's about 15 pages in.

3 A. 93 which?

4 Q. 9327.

5 A. You direct me to the English or the Arabic or both?

6 Q. Let's use both, I guess.

7 A. So I found the English.

8 Q. Let's start with the Arabic. They have a couple of good  
9 things on it.

10 A. Yes, I see the Arabic as well.

11 Q. The Arabic, kind of in the middle toward the bottom third  
12 of the page has a big seal stamp on it. Do you see that?

13 A. Yes, this is the emblem of the PA, yes.

14 Q. That's like the stamp of approval?

15 MR. ROCHON: Objection, your Honor.

16 THE COURT: Sustained.

17 Q. Then I think Mr. Hill was pointing out that the portion of  
18 the document that says that Shawish is in prison as a result of  
19 his fight for his country. That is part of the official form?

20 A. Yes.

21 Q. Whose words are those "as a result of his fight for his  
22 country"?

23 MR. ROCHON: Objection, your Honor.

24 THE COURT: Overruled.

25 A. These are the words of the ministry of prisoners, of the

1575

F1sQsok2

Shrenzel - Redirect

1 Palestinian ministry of prisoners. They are those who prepared  
2 the form, and, as I said, they, unfortunately, attached it or  
3 linked it with names of convicted murderers. This is the main  
4 problem, as I explained.

5 Q. I just want to ask you about an answer that you gave on  
6 Monday. I will read from the transcript. I am on 1501 to  
7 1502.

8 You said: "The whole idea of the form is this person  
9 convicted in an Israeli jail for multiple cases of murder, I  
10 remind you, he is considered to be serving his prison sentence  
11 because of his, as it says here in the translation, his fight  
12 for his country."

13 My question is: He is considered by whom to be  
14 serving his prison sentence because of his fight for his  
15 country?

16 A. In an official form of the ministry of prisoners of the  
17 Palestinian Authority, it, of course, is considered a stature  
18 outside the formalities or the phrasing of this document. That  
19 is the way it's portrayed in the media. One can say that there  
20 are heaps of praise usually on most salient terrorist but  
21 basically on everyone who is serving his time in an Israeli  
22 prison.

23 Q. You said heaps of praise?

24 A. Yes.

25 Q. I also want to go to one of those promotion records that

1576

FlsQsok2

Shrenzel - Redirect

1 Mr. Hill was asking you about. I think we can see one in the  
2 packet of Abdel Karim Aweis. He is the next big tab over in  
3 our binder. You can see his picture here. He is in 1159?

4 A. Yes.

5 Q. I want to look at Exhibit 103.

6 A. Which one?

7 Q. I think we didn't put 103 in. I think we have to put it up  
8 on the screen. I didn't have my binders last night. Let's go  
9 ahead and put 103 up on the screen. Do you see 103 up on the  
10 screen?

11 A. Yes.

12 Q. Do you remember Mr. Hill was asking you questions about  
13 these kinds of administrative orders?

14 A. Yes, I do.

15 Q. In particular, he was asking you about where it might say  
16 on the document that it was pursuant to the presidential order?

17 A. Yes.

18 Q. Just looking at it, can you direct the jury to where it  
19 indicates that this is a presidential order?

20 A. As you can see, you can see on the left side the name of  
21 the PLO is written, the Palestinian Liberation Organization,  
22 then the PA, which we call here the PA, and so it's official.  
23 And, again -- and that's in the beginning. Then you have the  
24 emblem. And then after the beginning of the administrative  
25 order, it's written clearly pursuant to the instructions of his

1577

F1sQsok2

Shrenzel - Redirect

1 excellency the president, commander in chief of the security  
2 forces.

3 Q. Who is the president and commander in chief of the security  
4 forces?

5 A. At that date 2008 it was president Mahmoud Abbas.

6 Q. So when the documents that we have in our binder like  
7 tab -- let's look at tab D under Aweis. That is Exhibit 58.  
8 If we look on the bottom, it talks about presidential orders,  
9 promotions by presidential orders on the right-hand side.

10 A. Yes, this is in exact compliance of what we have in front  
11 of us here.

12 Q. So the document matches up to the order?

13 A. Yes, it did.

14 Q. Great. What does it tell us about PA policy with regard to  
15 terrorists that they give promotions to people sitting in jail  
16 while convicted of terrorist murders?

17 MR. ROCHON: Objection, your Honor.

18 THE COURT: Sustained as to the form of the question.

19 Q. Can you tell us what policy it reflects to give promotions  
20 to individuals such as Abdel Karim Aweis who have been  
21 convicted of murder?

22 MR. ROCHON: Objection, your Honor.

23 THE COURT: No, I'm going to allow that.

24 You can answer the question.

25 A. I think I have discussed it several times, but let me

1578

FlsQsok2

Shrenzel - Redirect

1 reiterate it. It reflects a policy of praise, of appreciation,  
2 of endorsing what he did. And this is really unthinkable, yes?  
3 It's like if -- let's say a convicted murderer that belongs to  
4 the security forces of a certain country, it's unheard of, and  
5 it's totally illogical that he gets promoted, and it's a  
6 reflection, as I tried to explain on Monday and today, this is  
7 a reflection of the policy of the PA. They wanted him to do  
8 it. He did it. They praised him for that and they continue  
9 their support for him.

10 Q. By the way, Abdel Karim Aweis, did he have a criminal  
11 record before he got hired by the PA?

12 MR. ROCHON: Objection.

13 A. Yes, we discussed it.

14 THE COURT: Overruled.

15 A. He killed a person with an ax, with a knife, he was  
16 convicted and sentenced to life in prison. He was released  
17 under some gestures by a consequence of the Israeli courts.

18 Q. Now, I want to come back to Mohammed Hashaika, one of the  
19 bombers in the attack. He is the first one in our binder.  
20 Let's be sure we are oriented to him. He is 1171 in our  
21 binder. Then I want to look at his GIS file, which is tab E in  
22 the binder.

23 In particular, I want to ask you about the report on  
24 the second page? Do you have that report in front of you

25 A. Yes. 9953?

1579

FlsQsok2

Shrenzel - Redirect

1 Q. 9953.

2 A. Yes, I have it.

3 Q. Mr. Hill asked you some questions about this document or,  
4 actually, I think Mr. Hill pointed out this document and -- am  
5 I remembering this right? He pointed this out, and the only  
6 question he asked was whether I had asked you anything about  
7 it?

8 A. I don't exactly remember. It was one minute or something  
9 before we adjourned on Monday, but if you have the transcript,  
10 I can read --

11 Q. It's all right. You don't remember it. It's no problem.  
12 Looking toward the bottom of this report --

13 A. Yes.

14 Q. -- there is a bullet item that says: "Originally, the  
15 aforementioned intended to perform his operation in the  
16 Netanyahu, and he was arrested in Tulkarem by the Palestinian  
17 Authority. He was transferred to Ramallah and was imprisoned  
18 there."

19 A. Yes, now I remember. Mr. Hill asked me to confirm the fact  
20 that you have skipped some of the -- some portion of this  
21 bullet.

22 Q. So let's focus on this portion.

23 A. OK.

24 Q. I think what Mr. Hill is interested in is he says --

25 MR. ROCHON: Objection, your Honor.

1580

FlsQsok2

Shrenzel - Redirect

1 THE COURT: Sustained? What's your question.

2 Q. During the --

3 THE COURT: What's your question?

4 Q. I want to ask --

5 THE COURT: What is your question?

6 MR. YALOWITZ: I withdraw it. Let me ask another  
7 question.

8 Q. Let me direct your attention to the sentence -- I will read  
9 you a sentence and ask you a question about it. The sentence  
10 is: "During the invasion into Ramallah, he escaped from prison  
11 and intended to perform his operation through people of the  
12 Islamic jihad, but then the Al-Aqsa Martyrs Brigades have taken  
13 him from them."

14 My question is, are there other documents in our  
15 binder that are inconsistent with this statement?

16 MR. ROCHON: Objection, your Honor.

17 THE COURT: No, I will let him answer that.

18 A. Yes, and I believe that the assertion that he escaped  
19 because of these very so-called invasion or incursion, he is  
20 not correct, because we have significant pieces of information  
21 to the contrary. For example, we have the verdict of Abdel  
22 Karim Aweis. He was convicted according to his own confession  
23 that he is the one that released Hashaika, the suicide bomber.  
24 Because Mr. Nasser Shawish is a partner in planning this  
25 attack, told him that Mr. Hashaika is ready to carry out a

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1 terrorist attack, and therefore released him.

2 Q. Let's just look at that together.

3 A. OK.

4 Q. This is under Abdel Karim Aweis. He is the third one in  
5 our binder. We see his picture.

6 Then if we turn to tab A, let's make sure we are  
7 really solid on this. Turn to tab A. Are you there Exhibit  
8 375?

9 A. Yes, I'm there.

10 Q. This document, is this a transcript of a hearing in the  
11 case of Abdel Karim appeals?

12 A. Yes.

13 Q. If we look at the very bottom of the first page, it says:  
14 "Prosecutor: We have reached an arrangement in the case  
15 whereby the defendant will plead guilty to the amended  
16 indictment and the prosecution undertakes not to make use of  
17 the statement by the defendant today before the Court in other  
18 cases.

19 Then the defendant says on the next page, his counsel  
20 says, "I confirm the statements of my colleague. I have  
21 explained the amended indictment to my client. He understands  
22 it and pleads guilty to it."

23 Then the defendant says: "My counsel has explained  
24 the amended indictment to me. I understand and plead guilty to  
25 it. I request with regard to count 19, if explicitly or



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1 implicitly, I incriminate my brother blank, I do not admit  
2 this. I admit I sent with my brother blank and blank, but my  
3 brother did not know that they were being sent to carry out the  
4 attack. I asked my brother to take them, as he is a taxi  
5 driver, without him knowing of the intentions to carry out an  
6 attack.

7 Based on that, if we look at the next page, we see  
8 verdict, based on the guilty plea we convict the defendant of  
9 the offenses that are attributed to him. Are you with me

10 A. Yes, sir.

11 Q. Now let's go to that amended indictment that you were  
12 speaking about. That's on the next tab 356?

13 A. Yes.

14 Q. I want to go with you to page 35. Let's open that up?

15 A. Yes.

16 Q. I guess we should even start on 34. Let's just make sure  
17 everybody is there before we start with it. First of all, this  
18 is the 39th count, do we see that on page 34?

19 A. The 9, I see it, yes.

20 Q. That's not 19th count that we were look at a moment ago  
21 where we were talking about his blot?

22 A. I'm on page 3478.

23 Q. Great. Then --

24 A. Yes, 39th count. Yes, I looked at the number.

25 Q. If we look at item 3 on page 35?

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1 A. Yes.

2 Q. I will read it. "In early March 2002, Muhammad Hashaika  
3 was remanded in the Mucataa complex of the Palestinian  
4 Authority in Ramallah."

5 Can you remind us was is that Mucataa complex?

6 A. The Mucataa complex, as I explained, is a compound a main  
7 compound of the Palestinian Authority where also some of the  
8 security apparatus resided, especially the central intelligence  
9 and its head, Tawfiq Tirawi. And please remember that the  
10 convicted person here Abdullah Karim Aweis was an officer in  
11 that force. And also the jail was probably in the Mucataa.

12 Q. So in early March 2002, Mohammed Hashaika was remanded in  
13 the Mucataa complex of the Palestinian Authority in Ramallah  
14 following the request for the defendant, who is -- I think it's  
15 a typo.

16 A. In.

17 Q. -- who is in the general intelligence of the Palestinian  
18 Authority, Mohammed Hashaika was released from the said remand.

19 Could you tell me how you reconciled those two  
20 documents?

21 MR. ROCHON: Objection, your Honor.

22 THE COURT: No, he can answer overruled.

23 A. Yes, as I said, I do not accept the assertion of the GIS  
24 file that it had anything to do with the potential or  
25 hypothetical Israeli invasion. I assume it was in the interest

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1 of the GIS to present it like this because they were so deeply  
2 involved in the case. As you remember --

3 MR. ROCHON: Objection, your Honor.

4 THE COURT: I'm going to sustain the objection.

5 Let what the's your follow up question?

6 Q. Let's go back to a 138 exhibit -- I'm sorry 148 which is  
7 tab E.

8 A. In whose file?

9 Q. Hashaika?

10 A. Tab E of Hashaika?

11 Q. Yes.

12 A. 148.

13 Q. Let's look at 148, page 2. Are you there?

14 A. Yes.

15 Q. What is the date of the report that Mr. Hill was asking you  
16 about.

17 A. The date entered is November of 2011.

18 Q. November 2011?

19 A. Yes.

20 Q. Do you know what year this case was filed, the case we are  
21 here about?

22 A. 2003.

23 Q. So by 2011?

24 A. '02 or '03, yes.

25 Q. By 2011, the lawsuit that we are here about had already

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1     been filed?

2     A.   Yeah.   The case was over.   Aweis was convicted according to  
3     his plea, and this is later.   This was produced later.

4     Q.   In fact, this lawsuit Sokolow against PLO, do you know when  
5     this lawsuit was filed?

6             MR. ROCHON:   Objection, your Honor.

7             THE COURT:   You can answer.

8     A.   No, I honestly don't remember.

9     Q.   May I refresh?

10            MR. ROCHON:   Your Honor, we will stipulate.

11            THE COURT:   No.

12            MR. ROCHON:   It's relevant.   If the Court deems it  
13     relevant, we don't need this witness --

14            THE COURT:   I don't know if it's relevant.

15            MR. ROCHON:   Right.

16            THE COURT:   He says he doesn't know.

17            MR. YALOWITZ:   Sure.   So I would like to either  
18     refresh him or counsel will stipulate.

19            MR. ROCHON:   If the Court deems it relevant, we'd be  
20     willing to stipulate.

21            THE COURT:   I don't know if it's relevant.   I don't  
22     know if you have an objection to its relevance.

23            MR. ROCHON:   I do.

24            THE COURT:   Are you trying to make some point with  
25     this witness in --

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FlsQsok2

Shrenzel - Redirect

1 MR. YALOWITZ: Yes.

2 THE COURT: Why don't you ask him the next question?

3 MR. YALOWITZ: I'm sorry, your Honor?

4 THE COURT: Why don't you ask him the next question.

5 Q. Sure. Was this 2011 report after the Palestinian Authority  
6 had already been sued in this case?

7 A. Yes, I assume it is.

8 Q. Thank you. Who was in charge of the general intelligence  
9 service?

10 A. Tawfiq Tirawi.

11 Q. By the way, have you seen any documents from the defendants  
12 in which they made any evidence to capture Hashaika after his  
13 departure from prison in the Mucataa?

14 MR. ROCHON: Objection, your Honor.

15 THE COURT: I'll overrule. You can answer.

16 MR. ROCHON: Including as to scope.

17 THE COURT: You can answer that yes or no.

18 A. No, not at all. I wasn't warned. He wasn't looking --

19 THE COURT: Sir. You answered yes or no. That's all  
20 I want.

21 A. OK.

22 Q. Have you seen any documents reflecting any indication that  
23 they should try to capture him or get him back in some way?

24 MR. ROCHON: Objection, your Honor. Sustained. Asked  
25 and answered.

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FlsQsok2

Shrenzel - Redirect

1 Q. Do you see any documents reflecting a large manhunt to try  
2 and catch this --

3 THE COURT: Mr. Yalowitz is this the same question  
4 three times. How is this a different question? He answered. he  
5 said he's never seen such a document.

6 MR. YALOWITZ: All right. Thank you, your Honor.

7 Q. Have you seen any documents indicating the level of  
8 security that was placed over this individual?

9 MR. ROCHON: Objection, your Honor.

10 THE COURT: Sustained.

11 Q. Was this individual allowed to come and go during his  
12 prison stay?

13 MR. ROCHON: Objection.

14 THE COURT: Sustained.

15 Q. Let's take a look at Exhibit 1060 which is tab F in our  
16 binder.

17 A. Yes.

18 Q. Who is the author of this document?

19 A. Tawfiq Tirawi, the head of the general intelligence.

20 Q. As I recall, Mr. Hill asked you about whether Tawfiq Tirawi  
21 had been convicted of the March 21 attack. Do you remember  
22 that line of questions?

23 A. Yes, I remember being questioned and I answered that --

24 MR. ROCHON: Objection, your Honor.

25 THE COURT: Overruled.

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Shrenzel - Redirect

1 A. I answered that I reiterated that he was not convicted  
2 because, unfortunately, in spite of being one of the most  
3 wanted terror operatives by Israel, he wasn't captured by  
4 Israel and was not put to justice.

5 Q. Mr. Hill also asked you if he was convicted of the  
6 January 27 of 02 attack. Am I remembering that right?

7 A. Yes, the same answer.

8 Q. Based on Exhibit 1060 what was Tirawi's role in that  
9 March 21 attack?

10 MR. ROCHON: Objection, your Honor.

11 THE COURT: I'm going to sustain as to the form of the  
12 question. If there is something in the document you want to  
13 refer to, you can.

14 Q. Sure. Do you see where Tirawi informs Arafat of the arrest  
15 and interrogation of Hashaika?

16 A. Yes.

17 Q. And then he says, "The matter is at Arafat's discretion?"

18 A. Yes, the matter is at your excellency's discretion, I see.

19 Q. Based on this, what can you say Tirawi's role was in the  
20 attack?

21 MR. ROCHON: Objection, your Honor.

22 THE COURT: Sustained as to the form of the question.

23 Q. Sure. Based on this document, do you have an opinion as to  
24 Tirawi's involvement?

25 MR. ROCHON: Objection, your Honor.

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FlsQsok2

Shrenzel - Redirect

1 THE COURT: Sustained. Haven't we been over this?

2 MR. YALOWITZ: Sure.

3 THE COURT: Asked and answered.

4 Q. Let me just also go to Exhibit 233, which is the January 27  
5 attack. This one we will have to put up on the screen.

6 MR. ROCHON: Objection. Scope.

7 THE COURT: No, I'll overrule it. You can answer.

8 Q. Is this another document from the PA?

9 A. Yes, this brings us back to the Wafa Idris case. This is  
10 the document of the preventive security that relates to the  
11 involvement of the general intelligence in the issue of Wafa  
12 Idris, as it says in the headline or in the comment that was  
13 written there.

14 Q. Do you recall that the defendants stipulated that the  
15 handwriting at the very top was written by a PA employee?

16 A. Yes, I even remember that his name was Nabani. Yes, he was  
17 one of the officials to whom the letter was addressed.

18 Q. It says: "This information proves that the general  
19 intelligence are involved in the issue of Wafa Idris."

20 Did I read that right?

21 A. Your English is beyond doubt.

22 Q. Do you recall looking at the custodial statements of Noor,  
23 the individual who was convicted in that attack?

24 A. I remember it in general. If you want, we can --

25 Q. I think I have one or two questions on that. If we need



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Shrenzel - Redirect

1 the document, I'll put it up.

2 A. OK.

3 Q. Do you recall where Noor got the bomb that Wafa Idris used?  
4 Which building he got it in?

5 MR. ROCHON: Objection, your Honor.

6 THE COURT: Sustained as to the form of the question.

7 MR. YALOWITZ: Bear with me then, your Honor. I am  
8 just going to get the document and I will need just a moment.

9 MR. ROCHON: Your Honor, may we request a side bar?

10 MR. YALOWITZ: I'm really almost done, and I think  
11 we're here really within the scope of what your Honor's ruling  
12 was.

13 THE COURT: Talk to each other and see if you can  
14 resolve it.

15 MR. ROCHON: I don't think this is one we can resolve.  
16 I'll be happy to talk to him.

17 THE COURT: Well, come up.

18 (Continued on next page)

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FlsQsok2

Shrenzel - Redirect

1 (At the sidebar)

2 MR. ROCHON: Thank you, your Honor. This goes to the  
3 core issue of whether they can use the Noor statements to  
4 implicate my client in this attack. He is about to -- the  
5 question was where did Noor get the bomb.

6 THE COURT: That's why I sustained the objection, and  
7 I told him already that if you have something, and you want to  
8 go to that report and you want to quote something from it, then  
9 you can.

10 MR. ROCHON: Of course what it's going to say is that  
11 it's going to suggest he got it from someone at the Mucataa.  
12 That is to implicate my client in this because the witness --  
13 it's the same issue we raised with the Court previously. It's  
14 juxtaposing to try to suggest my client provided the bomb,  
15 that's exactly what the Noor statement cannot be used to do.

16 MR. YALOWITZ: I thought we got a ruling from your  
17 Honor on this that it was OK to argue from the inference that  
18 he committed his crime in the Mucataa.

19 THE COURT: I don't have any problems with you arguing  
20 that the inference is whatever it is, but I want to know what  
21 it is you want to ask this witness.

22 MR. YALOWITZ: Let me just find the exact passage.

23 MR. ROCHON: This is an area that we did not inquire  
24 in at all on cross as to the letter.

25 MR. YALOWITZ: They did. They asked he wasn't

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Shrenzel - Redirect

1 convicted. They completely opened the door on this.

2 MR. ROCHON: Your Honor, if the purpose is to respond  
3 to whether Mr. Tirawi could be convicted, then what he is  
4 trying to do is suggest that by this statement by Noor against  
5 Tirawi, and that is act exactly what you told him he couldn't  
6 do. He is using the statement of this gentleman who is  
7 shifting blame to others to say the people he was shifting  
8 blame to is my client. This is exactly what he cannot do.

9 THE COURT: I still don't know what the question is.  
10 What are you going to ask this witness?

11 MR. YALOWITZ: I'm going to show him a passage in  
12 which he says, "I got the bomb in the Mucataa."

13 THE COURT: OK. Then what?

14 MR. YALOWITZ: Then what's the Mucataa?

15 THE COURT: We have been through that like five times  
16 already. You don't have to ask him that. It's been asked and  
17 answered.

18 MR. YALOWITZ: Then I just want to show him that  
19 passage.

20 THE COURT: And ask him what?

21 MR. YALOWITZ: And ask him is that consistent with  
22 your understanding.

23 MR. ROCHON: Of what?

24 THE COURT: That's not even a substantive question.  
25 That's argument. So I'm not going to allow that kind of

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Shrenzel - Redirect

1 question. If you want to make whatever reasonable arguments  
2 you want to make, but that is not a substantive response from  
3 this witness with regard to that issue. It will remain to be  
4 seen of whether you have what appropriate instances you can to  
5 argue --

6 MR. YALOWITZ: Let me move away from this document.  
7 We can argue from the document. I will have some follow-up on  
8 233, which I will focus on the text of 233.

9 THE COURT: I don't remember which one it is.

10 MR. ROCHON: It's the letter we didn't ask a single  
11 question about on cross-examination deliberately. That was the  
12 whole point of our scope of cross.

13 MR. YALOWITZ: It's Tirawi was convicted and talks  
14 about Tirawi. It's fair.

15 THE COURT: Let's see what the questions are.

16 MR. YALOWITZ: Your Honor, while we're here, I don't  
17 understand why if Mr. Hill is doing the cross-examination,  
18 Mr. Rochon is doing the objecting. It seems like if we have  
19 one lawyer per witness, that would be more orderly.

20 THE COURT: You don't want them to tag-team you?

21 MR. YALOWITZ: I don't like being tag-teamed.

22 THE COURT: I think you're real good at this.

23 You can handle both.

24 (Continued on next page)

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F1S8SOK3

Shrenzel - redirect

1 (In open court)

2 BY MR. YALOWITZ:

3 Q. So, Mr. Shrenzel, have you had a chance to consider the  
4 role of Tawfiq Tirawi in connection with the Wafa Idris suicide  
5 bombing based on Exhibit 233?

6 MR. ROCHON: Objection, your Honor.

7 THE COURT: Overruled.

8 You can answer.

9 A. Yes. I would say the following. This very document cannot  
10 provide us with a conclusive final proof of his prior knowledge  
11 of the attack. But given our overall knowledge about --

12 MR. ROCHON: Objection.

13 THE COURT: He can finish.

14 A. -- the profound involvement of Tirawi during the whole  
15 period, in the series of attacks, of covering up, of providing  
16 weapons, for example, the explosives used in the Hashaika  
17 attack, if we take all of the Tirawi file in consideration, I  
18 think it's more likely than not that he had prior knowledge and  
19 involvement in that attack. That's my professional assessment.

20 MR. ROCHON: Objection.

21 THE COURT: Overruled.

22 MR. YALOWITZ: I have nothing further on redirect.

23 THE COURT: Any further questions, Mr. Hill?

24 MR. HILL: No, your Honor.

25 THE COURT: Thank you, sir.

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Shrenzel - redirect

1 You can step down.

2 THE WITNESS: Thank you, your Honor.

3 MR. YALOWITZ: Would it be convenient to take a recess  
4 while we prepare for the next witness?

5 THE COURT: Sure.

6 Let's take a ten-minute break.

7 Don't discuss the case, keep an open mind, and I will  
8 see you in ten minutes.

9 (Jury exits courtroom)

10 MR. ROCHON: When the court comes back, I have some  
11 issues that relate to redirect, but I can raise them when you  
12 come back.

13 THE COURT: Sure.

14 (Witness excused)

15 (Recess)

16 (Continued on next page)

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F1S8SOK3

1 (Jury not present)

2 MR. ROCHON: As to the redirect, there are at least  
3 four different areas where the witness went into either  
4 inadmissible or improper testimony, each of which we objected  
5 to. I will reference first the areas where he discussed  
6 evidence that this court had excluded.

7 When Mr. Yalowitz went to the magazines, and we were  
8 objecting, the witness nonetheless included some of the  
9 material from the magazines about, that contains language about  
10 Jewish people and exactly the kind of inflammatory religious  
11 language this court ruled cannot come in and this witness  
12 specifically referenced that language in his answer.

13 THE COURT: My recollection is he referenced that kind  
14 of language on cross.

15 MR. ROCHON: No, sir. He referenced it during the  
16 redirect.

17 THE COURT: Go ahead. You can finish.

18 MR. ROCHON: If he referenced it on cross and I am  
19 mistaken, it would be improper as well.

20 THE COURT: But you asked the questions and you didn't  
21 stop him. And I know what you're going to lay out in a second.  
22 You're going to lay out how it is beyond the scope of cross.  
23 Quite frankly, he was asked questions and he was allowed to go  
24 on in a very long narrative and give his opinions about all of  
25 these areas.

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F1S8SOK3

1 I think the defense opened the door to all of this.  
2 If you didn't want the answer, you should have said it was  
3 nonresponsive and gone on to another question. One question he  
4 answered for about five minutes and he went into all of his  
5 opinions into all of these areas, and not only without  
6 objection but in response to the defense's question. That's  
7 basically my position. So if you want to quickly put the rest  
8 of it on the record, then we can get the jury in.

9 MR. ROCHON: As to the specific references, I was just  
10 citing the language in the magazines. I don't think he  
11 included that even in his long answers during cross.

12 THE COURT: I will look at the transcript.

13 MR. ROCHON: Certainly we didn't get into it during  
14 the close of his redirect examination, but the witness  
15 referenced that Tawfiq Tirawi allegedly supplied the explosives  
16 to Mr. Hashaika in his attack. You excluded a custodial  
17 statement in which that was referenced, and that is because a  
18 custodial statement was putting the blame on another.

19 THE COURT: I have to look at the transcript because  
20 my recollection is there was not an objection.

21 MR. ROCHON: There was an objection before the answer  
22 and after the answer. And it was towards the end of the  
23 redirect.

24 In addition, again over objection, he discussed as to  
25 the motivations of individuals, specifically as to Abdul Karim



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1 Aweis, that "they wanted him to do it and he did it," and the  
2 "they" in that instance was our clients. The experts are not  
3 allowed to testify about the state of the mind of an entity or  
4 organization.

5 THE COURT: Given the answers given on cross, that was  
6 well within the scope. He gave similar answers on cross. He  
7 gave more complete answers.

8 MR. ROCHON: The fact that the witness was able to  
9 sneak in improper answers --

10 THE COURT: He can't sneak it in on cross. You asked  
11 him the questions. That argument doesn't fly. You didn't  
12 object. You let him go on and on.

13 MR. ROCHON: I understand the court's position on  
14 that. I respectfully disagree.

15 THE COURT: That is fine. You don't preserve any  
16 objection to a question that you asked and an answer that was  
17 given and you didn't object to the answer, or you didn't stop  
18 the witness from going on.

19 Anything else?

20 MR. ROCHON: Yes.

21 THE COURT: I don't want the jury to wait.

22 MR. ROCHON: It's only one other specific reference.  
23 He specifically discussed at some length what Said Ramadan  
24 supposedly thought and said this is what he thought. Said  
25 Ramadan, you will recall, is one of the suicide attackers in

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F1S8SOK3

1 this case. There is no evidence as to what Said Ramadan was  
2 thinking, as to his motivation in this case, and we have a  
3 contemporaneous objection, and I know the court overruled it,  
4 but I wanted to point out this testimony was also improper by  
5 the witness.

6 THE COURT: If there is no basis in the record for  
7 that, then that's an argument you will make to this jury. They  
8 can assess his expertise and the basis for his conclusions  
9 based on the evidence that's before them. If it is consistent  
10 with that, they can accept it. If it's inconsistent, you will  
11 argue that they should reject it.

12 MR. ROCHON: Lest some day someone say I didn't ask  
13 for a remedy for my objections, your Honor, I think given the  
14 testimony the court can either strike the redirect or declare a  
15 mistrial. If you are not inclined to declare a mistrial, I  
16 wouldn't want to fail to ask for a remedy given our objection.

17 THE COURT: What remedy are you asking for?

18 MR. ROCHON: To strike the redirect.

19 THE COURT: I am not going to strike the redirect. I  
20 think it was within the scope of cross. I think I gave you  
21 significant leeway on cross. I think you gave him significant  
22 leeway in his answers. I think the questions posed that relate  
23 to that are within the scope of that cross and nothing is  
24 appropriate to strike.

25 I will look at the transcript when I get the

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1 transcript. If I believe some other remedy is appropriate, I  
2 will consider it.

3 Let's get the jury.

4 (Continued on next page)

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